File Microcopies of Records in the National Archives: No. 112

Roll 29

DESPATCHES FROM UNITED STATES CONSULS IN SHANGHAI, 1847-1906

Volume 29

August 6, 1879 - February 2, 1880

THE NATIONAL ARCHIVES

Washington: 1947

INTRODUCTORY NOTE

The volume microcopied on this roll has the following backstrip title: "29 / Shanghai / August 6, 1879 / February 2, 1880 / Department / of State." It contains despatches, with enclosures, addressed to the Department of State from United States consular officials at Shanghai, China, between August 6, 1879, and February 2, 1880. The contents are registered on Roll 1 of the microcopy.

The volume is part of a body of records in the National Archives designated as Record Group No. 59, General Records of the Department of State. It is volume 29 of a series generally referred to as Consular Despatches, Shanghai.

No. 29

Aug 1. 1879

Ap 1. 1880

Shanghai

Theis ends Bailey

~~[illegible]~~ Dunn.

29

M. Wood
1538 or
1572

No. 13] Aug. 6th 1879 United States Consulate at Shanghai,

Rec'd Oct. 1st 1879

Mr. Bailey Consul General to the State Department,

Subject:— Proposed mutilation of the Children and Grand-Children of the late Yakoob-Beg.

ABSTRACT OF CONTENTS.

Transmits extract from Peking Gazette relating to the mutilation of the Children & Grand-Children of the late Amir of Eastern Turkistan, also an editorial from the North China Daily News. and an extract from the Med. Reports of the Customs. both relating to the same subject.

No. 13.

United States Consulate, General,

Shanghai, August 6th 1877

Hon. Charles Payson

Third Assistant Secretary of State,

Washington, D.C.

Sir,

I have the honor to transmit herewith a translation, in print, from the Peking Gazette, the official Bulletin of the Imperial Government, relating to the barbarous punishment about to be inflicted upon the Children and Grand-Children of the late Yakoob Beg, Ameer of Eastern Turkistan. I also transmit an editorial, in print, from the "North China Daily News" which shows the true relations which Yakoob Beg sustained to the Government of China

China, and the sentiment of the foreign Community here at this unutterably shameful and barbarous punishment of irresponsible infants.

3/ I enclose No. 3. herewith, also in print, will show fully the horrible barbarity of the proposed mutilations.

I have the honor to be.
Sir,
Your obedient Servant
[illegible]
Consul-General

ABSTRACT OF PEKING GAZETTES.

June 26th.—(1) A memorial from Tso Tsung-t'ang, Imperial Commissioner and Administrator in Chief in Turkestan etc., etc., reporting the trial of the sons and grandsons of certain rebels, and the sentence passed in accordance with the law; and requesting that the Board may be directed to revise the proceedings and signify their decision that the law shall take its course. He states that a report has been received from Liu Chin-t'ang, Director of the Court of Transmission, to the effect that when, in the winter of 1877, order was restored in Turkestan, there were taken prisoners Ying Shang Kuli and three other sons of the Andijani rebel Yakoob Beg, now dead; also, Aisan Ahung and another grandson, as well as two grand-daughters and four wives of the same rebel, all of whom were handed over to trusty officers to be kept in custody. The four women, it appeared on examination, were Chinese Mahommedans who had only submitted themselves to Yakoob Beg under compulsion. Under these circumstances they were entitled to be treated with clemency, and accordingly their friends were directed to take them away under bond and find them husbands. Yin Shang Kuli's son, aged three, was attacked with whooping cough and died in prison on the 26th of April, 1878, medical treatment having been of no avail. As to Ying Shan Kuli himself, his arrogant bearing has seldom been equalled. After undergoing an examination at the hands of Liu Chin-t'ang in person, who was satisfied that his guilt had been established beyond doubt, he was put to death on the public execution ground on the 3rd of June, 1878, his identity having previously been duly recognised. The two grand-daughters, children in arms, fell ill during the summer and died, the one on the 25th June, 1878, the other on the 2nd July following. An officer, as the regulations require, was deputed to hold an inquest and attend to their burial. Not counting the one put to death and the two who died, there then remained of Yakoob Beg's children his fourth son Maiti Kuli, aged 14; his eighth son Yima Kuli, aged 10; his ninth son K'ati Kuli, aged 6; and Yakoob Beg's grandson, the son of Beg Kuli, Aisan Ahung, aged 5; who were all put in charge of a *Pu Yin*, a degraded captain of the Wên Hsien battalion, and Chu Yuan-chüan and five other soldiers of the Kashgar garrison to be conveyed within the frontier there to await sentence. Their arrival in Kansu on the 19th February having been reported, they were sent on, after examination, to the Judicial Commissioner at Lan-chow Fu to be tried and dealt with according to law. In course of time, Shih Nien-tsu, the Judicial Commissioner, reported that these rebel children and grand-children, who had been committed to the prison of the Kao-lan Magistrate, were brought before him and put upon their trial. Maiti Kuli stated that he was fourteen years of age, and the fourth son of Yakoob Beg; Yima Kuli stated that he was ten, and the eighth son of Yakoob Beg; K'ati Kuli stated that he was six, and the ninth son of Yakoob Beg; Aisan Ahung stated that he was five, and the son of Beg Kuli. In reply to the most searching interrogation respecting the treasonable designs of Yakoob Beg and the others, they all maintained that they knew nothing about the matter. Yakoob Beg, it would be remembered, was a Kokandi rebel chief, who, in 1864, together with the rebel leader Beg Kuli, leagued himself with the Mahommedan rebels Chin Hsiang-yin and his son, and, after crossing the mountains, seized Kashgar and gradually gained possession of the eight southern cities, as well as Turfan and Urumtsi, which places were held for over ten years. When, eventually, the Imperial army, making rapid progress, recaptured all the cities, he still ventured to offer resistance. Space itself can scarce contain the detestation of such crimes. Death in its most cruel form is the penalty awarded by the law.

In cases of sedition, where the law condemns the malefactors to death by the slow and painful process, the children and grand-children, if it be shown that they were not privy to the treasonable designs of their parents, shall be delivered, no matter whether they have attained full age or not, into the hands of the Imperial Household to be made eunuchs of, and shall be forwarded to Turkestan and given over as slaves to the soldiery. If under the age of ten, they shall be confined in prison until they shall have reached the age of eleven, whereupon they shall be handed to the Imperial Household to be dealt with according to law. In the present case, Yakoob Beg's sons Maiti Kuli, Yima Kuli, and K'atai Kuli; and the rebel chief Beg Kuli's son Aisan Ahung, are all under age, and were not, it has been proved, privy to the treasonable designs of their parents. They have therefore to be handed to the Imperial Household to be dealt with in accordance with the law which prescribes that, in cases of sedition, the sons and grandsons of malefactors condemned to death by the slow and painful process, if it be shown that they were not privy to the treasonable designs of their parents, shall, whether they have attained full age or not, be delivered into the hands of the Imperial Household to be made eunuchs of and shall be sent to Turkestan to be given as slaves to the soldiery. But, as these are rebels from Turkestan, it is requested that they may, instead, be sent to the Amur region to be given as slaves to the soldiery there.

As Maiti Kuli is fourteen, it is requested that he may be delivered over to the Imperial Household so soon as the reply of the Board is received. Yima Kuli is just ten, K'ati Kuli and Aisan Ahung are under ten; they have therefore to be confined in prison until they attain the age of eleven, when they will be delivered over to the Imperial Household to be dealt with according to law.

This is the report received from Liu Ching-t'ang, and Your Minister having found the statements therein contained to be correct, has to apply for a decree commanding the Board to revise the proceedings and signify its decision that the law is to be carried out.—Rescript: Let the Board of Punishments deliberate and submit a report.

THE *Peking Gazette* of the 26th June publishes a memorial from Tso Tsung-t'ang regarding the treatment which he proposes to inflict on the infants and elder children of the late Yakoob Beg, Ameer of Eastern Turkestan, the details of which are almost too horrible to relate. On a previous occasion in our translations from the *Peking Gazette* we drew attention to a somewhat similar case, wherein the son of one of the T'aiping chiefs, having been preserved for some years in prison and at last grown to boyhood, was sentenced, for no fault of his own, he being at the time of the rebellion an infant in arms, to suffer mutilation and to be sent as a slave to the forces serving under Tso. The instance under notice is, however, the more remarkable, as the father of the infants, an Andijani soldier who never owed allegiance to China, had succeeded in uniting under a firm Government the revolted provinces of the Altishahr, and had as an independent prince corresponded on equal terms with both the British and Russian Governments. So well was his Government administered, that it excited the admiration of the officials of both countries, and there is every reason to believe that, had it not been for the shortcomings of an unworthy son, a powerful and civilised State would by this time have been established in the heart of Turkestan, strong enough to repress disorder and willing to enter into amicable relations with its three powerful neighbours, China, England and Russia. The policy which led the Chinese Government to carry on a war *a l'outrance* against the late Ameer we have ever opposed, as uncertain in its issues and as sure to increase the external embarrassments of the Empire. Unfortunately for China itself, moderate views did not prevail; the war was carried on to the last extremity, and taking advantage of the quarrels incident on the death of the Ameer the Chinese succeeded in occupying Yarkand. So far, however, their success has only resulted in a more complete state of anarchy, and has led to embarrassments of a more serious nature than before prevailed; and the whole question of Chinese dominion in Central Asia is assuming importance as a new phase of that perpetual "Eastern Question" which has been a disturbing influence in the politics of the world for the last three quarters of a century. As above stated, Yakoob Beg was not a Chinese subject at any period of his life; he was an Andijani, who, driven from his former pursuits by the advance of Russia, crossed over into Turkestan as Lieutenant to the Khoja Boozoorg Khan, succeeded in taking Kashgar, not from the Chinese, but from the revolted Tunganies and their Kirghiz allies, who had recently captured and sacked the place. Circumstances, mainly the cruelty and incapacity of Boozoorg Khan, favoured Yakoob, and he after a short time assumed the Government, Boozoorg being permitted to go free on the easy condition of making a pilgrimage to Mecca. Technically, therefore, Yakoob was no rebel, nor did he instigate the rising against China. He found himself at Kashgar when it had ceased to belong to China, and was in a state of anarchy, and at a time when to all appearance Chinese influence in Turkestan was permanently extinguished. The few Chinese garrisons which still remained were isolated, and except in the capture of Yang-i-shahr Yakoob does not seem to have been engaged in direct hostilities with the Chinese troops for many years. Yakoob, by his able administration, reduced the state of anarchy into which the lapsed provinces had fallen, and out of a chaotic mass welded together a compact and orderly State. As to the internal administration of his Kingdom, we have the evidence of Mr. Shaw and Sir Douglas Forsyth, who visited him with the express permission of the Indian Government, and the latter of whom went as envoy of the Indian administration to arrange a treaty of commerce. The Russian Government also treated with the late Ameer as an independent prince, and recognised his international rights.

Setting aside, therefore, all comment as to the nature of the punishment proposed to be inflicted on harmless infants and children, we are justified in protesting on international grounds against the claim of the Chinese Government to treat the family of the late Ameer as rebels against their authority. What Yakoob was guilty of amounted to an act of simple war, and however we may seek to justify the Chinese Government in repressing that war with all the severity in its power, that justification cannot be made to extend to simple and deliberate cruelties exercised in cold blood against innocent children whose ages precluded any malicious intent. As a matter of policy even, the proposed mutilation of the children of Yakoob Khan can be of no effect whatever. However strong was Yakoob's influence personally, he had no family tie with the inhabitants of the Altishahr, and it is in the last degree unlikely that any of his family, even if placed in similar circumstances, would ever succeed in organising a rising. The ancient family of the Khogas to which Boozoorg belonged, will always be looked to in the first instance to lead any popular movement in Eastern Turkestan. It is understood that the Chinese Government has recently sought the advice of the foreign representatives at Peking with regard to its present difficulty with Japan. An opportunity is thus afforded, without breach of international courtesies, of calling its attention to the unutterably shameful and barbarous nature of its proposed treatment of the children of Yakoob Khan.

He returned on the 27th May with a history of good health till the beginning of the month when he had severe symptoms of nephralgia calculosa. Ten days later he noticed that the stream stopped suddenly as before. He complained much of severe rheumatic pains in all his joints, anorexia and sleeplessness.

28th May.—I crushed a stone measuring ⅞ inch in the seized diameter, and felt a concretion in the prostate which I could not dislodge. On the 30th he passed a quantity of detritus, and a uric acid stone rather waterworn, less than ½ inch thick and with the impression of the male blade of the lithotrite on one of its faces. On the 6th June, the symptoms, though much less urgent, continuing, I crushed another stone, the remainder, I think, of the former one. No manipulation with the short-beaked sound was sufficient to detach the prostatic mass. Two days later he was, he said, sensible of the grating of two fragments at the neck of the bladder. He now rapidly regained strength and appetite, the urine was clear, free from albumen, and passed painlessly about once in three hours. A fragment—he thought two—now descended into the urethra, but he would not consent to an attempt to remove it. It gradually advanced to the front of the perinæum and lodged there, setting up a good deal of irritation. Attempts with urethral forceps having failed, on the 21st June I cut down on it, and removed a piece 1¼ inch long moulded to the urethra. On the 29th June he left the hospital perfectly well, the sound detecting nothing in the bladder or at the prostate. (He continues well at the beginning of December.)

The lithographs on the opposite page represent respectively the condition before operation, and the appearance two months after convalescence, in the case published by me nearly three years ago (*Customs Medical Reports*, ix. 18). The patient has been frequently seen since, and continues in perfect health.

Mr. STENT of the Customs service recently read an interesting paper on Chinese eunuchs, before the local Asiatic Society. To that paper I am (with the author's permission) indebted for the facts relating to the operation of castration and to the status of eunuchs in China, which will be found in the following paragraphs:—

SURGICAL[1] operations among the Chinese are for the most part comprised under the headings of acupuncture, the application of the moxa, and the opening of abscesses. The first two are practiced for all manner of diseases, the sole necessary indication being the presence of local pain or swelling. The last is adopted only when the fluid contents of a tumour are visibly approaching the surface, and no doubt superficial aneurisms occasionally happen to be so treated. But, as a rule, Chinese practitioners are both timid and tardy in their use of the knife, and for this reason foreign surgeons find that a large part of their work among the natives consists in the opening of huge collections of pus which have burrowed between the muscular planes, and the treatment of sinuses whose orifices have, often for years, been carefully closed with resinous plasters. The powerlessness of Chinese practitioners when confronted by obstetric difficulties or by such accidents as extravasation of urine, has been sufficiently illustrated a few pages back. The one exception to the general rule is found in the boldness with which the Chinese castrate men and animals. By some extraordinary chance they have even discovered the dependence of conception upon the presence of the ovaries, and acting upon this knowledge, they not only castrate boars and cocks, but spay sows with remarkable skill and success.

The operation of castration is mentioned in native histories as early as 1100 B.C., when it was by edict constituted one of the recognised modes of punishment for certain grave offences. Its object, when performed in pursuance of a sentence, appears always to have been purely punitive, not preventive on any theory such as has more than once been broached in England, and which has to my mind much to recommend it, that criminals of the worse sort should be prevented from founding or increasing criminal families. According to Mr. STENT, the last recorded occasion on which its performance was inflicted as a penalty was in 1856 when a number of rebels were captured in the metropolitan province, having with them several boys under

[1] A portion of the following pages appeared in the *Lancet* of 28th July 1877.

15 years old. The adults were all beheaded, and the children all castrated. But an edict which appeared in the *Peking Gazette* of the 28th November 1877, proves that in special cases the same punishment is even still inflicted. The following is a translation of the edict referred to:—

Yu Luh, governor of Anhwei, memorialises, reporting that when, in 1872, certain disturbances had broken out on the borders of that province and of Honan, after the apprehension of the leader of the rising, Li Liu by name, which took place in Honan, the government forces in Anhwei further effected the capture of this malefactor's son, Li Mao-tz'e, at that time six years of age. The child was handed over by the governor then in office to the district magistrate of Hwaining to be kept imprisoned until he should reach the proper age to be dealt with according to law; and the magistrate of the said district has now reported that the prisoner has reached the age of eleven, and acknowledges that he is the son of the insurgent leader Li Liu, but that owing to his tender years at the time he knew nothing of his father's treasonable designs. The law runs as follows:—

The children and grandchildren of rebels, if not themselves privy to the treasonable designs of their parents, shall be delivered into the hands of the Imperial Household to be castrated, and shall be forwarded to Turkestan and given over as slaves to the soldiery. If beneath the age of ten, they shall be confined in prison until they shall have reached the age of eleven, whereupon the sentence of the law shall be carried into effect.

As the prisoner in question has now reached the prescribed age, execution of the sentence of the law must be proceeded with; and submission to this effect having been made by the Provincial Judge, on application made by the Prefect of Hwaik'ing-fu, the governor has approved the same, and has communicated with the Board in due form. He requests that instructions be issued accordingly.

Rescript:—Let the Board of Punishments take note.[2]

In China, however, as elsewhere, eunuchs are in general made in order to qualify them to act as palace servants, and occasionally as palace executioners. They may be kept only by certain members of the imperial family and in the palaces of the eight hereditary princes whose ancestors assisted in establishing the present dynasty. The emperor has 3,000 in his service, exclusive of 18 castrated Lamas who act as domestic chaplains; each prince of the blood and imperial princess is obliged to maintain 30, and so on through the different grades, the number diminishing as the distance from the head of the reigning house increases. Every fifth year each prince supplies eight young eunuchs for the palace, but as this contribution does not by any means meet the demand, the general public is called on to send in adults or adolescents as candidates for the painfully acquired honour of palace employment. As a matter of fact there is no dearth of persons willing to submit to castration. Boys are compelled by their parents to offer themselves; while, as to adults, men who are at once poor and lazy are tempted by the certainty of an assured income with little or nothing to do for it, and men with a peculiar form of ambition are seduced by the mystery and importance of the duties supposed to be confided to eunuchs. Thus it happens that at the present moment some of the eunuchs in Peking have wives and families. But when a eunuch dies he is buried not with his family, whether he has one of his own or not, but in a place specially set apart, whither every spring and autumn a body of eunuchs repairs to offer those sacrifices which in the ordinary course of life are offered by children to the manes of their fathers.

The operation is performed at an establishment maintained for the purpose immediately outside one of the palace gates. The operators are known as knifers, and they contrive to keep the trade in their own families. For each castration, and the subsequent care of the case they receive the equivalent of £1.16.0 sterling.

When about to be operated on, the patient is placed in a semi-supine position on a broad bench. One man squatting behind him grasps his waist, and one man is told off to each of his legs. Bandages are fastened tightly round the hypogastric and inguinal regions, the penis and scrotum are three times bathed in a hot decoction of pepper pods, and the patient, if an adult, is solemnly asked whether he repents or will ever repent his decision. If he appears doubtful he is unbound and dismissed, but if his courage has held out, as it usually does, all the parts are swiftly swept away by one stroke of a sickle-shaped knife; a pewter

[2] *North-China Daily News* of 17th December 1877.

plug is inserted into the urethra, and the wound is covered with paper soaked in cold water and is firmly bandaged. The patient, supported by two men, is then walked about the room for two or three hours, after which he is permitted to lie down. For three days he gets nothing to drink nor is the plug removed from the urethra. At the end of this period the dressings are changed, and the accumulated urine is allowed to escape. The parts generally heal in about one hundred days, when the patient is inspected by an old experienced eunuch in order to make sure that the mutilation is complete. About two per cent. of all cases prove fatal, some by hæmorrhage, some by extravasation, and some doubtless by irritative fever. Mr. STENT says nothing about obliteration or contraction of the canal of the urethra, although one would expect that the process of cicatrisation would frequently produce this accident. For a long time after operation there is incontinence of urine. Hence a common Chinese saying—"He stinks like a eunuch."

The organs removed are embalmed and sealed up in pint vessels. Whenever a eunuch is nominated for appointment to any post he must produce his vessel, and have its contents inspected by the proper authority. Should the parts be lost he has to borrow or hire the vessel belonging to another. When he dies his organs are buried with him.

It would seem that even after the very radical operation just described, a growth is occasionally reproduced round the urethra sufficient to excite the suspicion of a jealous tyrant, and perhaps the interest and curiosity of the members of his harem. At all events, history records that in the middle of last century, a report having been made to the Emperor that some of the palace eunuchs had become dangerous, the entire staff were "swept clean" a second time.

When young, according to Mr. STENT, eunuchs are rather like handsome girls, but are easily distinguished by the total absence of hair or down on their cheeks, and by their falsetto voice (vox fracta).[3] They age rapidly. They have little or no muscular strength, but a lavish deposit of subcutaneous fat makes them stout. As this fat is absorbed soon after middle age is reached, an elderly eunuch is repulsive in appearance, resembling a wrinkled, withered hag. In walking, eunuchs lean forward, keeping the legs close together with the toes pointed outwards. When riding they do not grip the saddle, but trust to the stirrups alone. By these marks the Chinese recognise the approach of a eunuch while he is still at a great distance. Eunuchs are hysterical, easily moved to violent wrath, and as easily appeased, readily amused or depressed, but with no tendency to melancholy or suicide. They are generally timid and harmless, affectionate to women and children, and passionately attached to pets, especially to dogs. They are honest and charitable, and are noted as not being hagglers. They are all gamblers. They are moved to revenge chiefly by allusions to their deficiency.

It will not be without interest to draw, as far as may be, a historical parallel between the Chinese practice of castration, and the same practice as found among other nations. It is of great antiquity. The earliest notice of eunuchs occurs in the Bible, and relates to Egypt:—*Igitur Joseph ductus est in Ægyptum, emitque eum Putiphar eunuchus.*[4] It seems strange that Potiphar should have had a wife, but he may have been mutilated after marriage, as sometimes happens in China, or he may have been incompletely mutilated, which would appear to have sometimes been the case in Rome,[5] or he may have taken a wife merely for show and to complete his establishment. This also was done at Rome.[6] The Jews kept up the practice, and adopted all three of the operations which will be noticed further on.[7] I do not remember any allusion to the practice in HOMER. HESIOD[8] tells the story of the mutilation of Uranos by his son

[3] JUVENAL, *Sat.* ii. 111.

[4] εὐνοῦχος (LXX) Gen. xxxix. 1. The Egyptians kept up the practice of castration as an introduction to high office (HORAT. *Epod.* ix. 11 seqq).

[5] JUVENAL (vi. 512) describes the archpriest of Cybele as *ingens semivir;* OVID (*Fast.*, iv. 183) calls the priests *semimares;* MARTIAL (*Epigramm.*, iii. 91 2) also talks of *semiviro Cybeles*, though immediately afterwards he qualifies him and his companions as *steriles;* and (vi. 2) he writes:—*At prius (o mores!) et spado mœchus erat.*

[6] JUVENAL, when describing the prodigious doings of his time, says (i. 22) *Quum tener uxorem ducat spado.*

[7] *Non intrabit eunuchus attritis* (θλαδίας LXX.) *vel amputatis testiculis et abscisso veretro ecclesiam Domini* (Deut. xxiii. 1). For much interesting information upon this part of the subject, see SMITH'S *Dictionary of the Bible*, vol. i. *s.v.* EUNUCH.

[8] *Theog.*, 160.

KRONOS, whence it is clear that the operation was at least known in his day to the Greeks. HERODOTUS[9] tells how one HERMOTIMOS who was purchased as a child by a Chian named PANIONIOS was castrated by him, and was subsequently sold to XERXES. Having come to power, he got PANIONIOS and his four sons into his hands, and revenged himself by compelling PANIONIOS to castrate all four of his sons, and when he had finished the sons were forced to castrate their father. HERODOTUS[10] states also in his account of the second Persian conquest of Ionia (about 540 B.C.) that as soon as the Persian generals had mastered the cities, they chose the handsomest young men and turned them into eunuchs. ATHENÆUS[11] preserves accounts of the practice among the Medes and Lydians, and says that the latter nation had discovered the secret of ovariotomy. At what time the operation was introduced into Rome it would be hard to say. The worship of Cybele, whose priests were eunuchs,[12] was imported from Pessinus in Phrygia, during the second Punic war[13] (205 B.C.). The priests recruited their ranks by castrating candidates obtained either by fair means or foul, and considered it their duty to mutilate every youth upon whom by force or fraud they could lay their hands. Thus MARTIAL,[14] in his waggish way, relates a story of the discomfiture of a band of priests who met an old man travelling with a young and handsome slave. Anxious to castrate the latter, they asked where he would lie after retiring to rest, but he suspecting a plot indicated the place that was to be occupied by his master. In the dark, accordingly, they mutilated the wrong man. This anxiety to set a seal on people recalls the enthusiasm of the sect of Valesians who in the fourth century A.D. devoted themselves to the making of eunuchs, until in 325 the Council of Nice reproved the practice. I believe, however, that the right of every person who has undertaken vows of chastity to render the infraction of those vows impossible in his own case is still by many Catholic theologians held to be a matter for decision by the conscience of each individual. The Valesians are in modern days represented by the Russian *Skoptsy*, who perform emasculation, either complete or partial, upon themselves and seek to get as many adult males as possible into their clutches. They likewise mutilate the women of their order by amputating the breasts or disfiguring them by slashes made more or less at random. The *Skoptsy* intermarry, and it is said that these unions are not invariably unfruitful, and are frequently happy. The personal character of the members of the sect stands very high, the probity of a *Skopet* being almost proverbial.[15]

In Rome there were three classes of mutilated persons:—*Castrati*, treated in much the same way as that adopted by the Chinese and also by the Turks;[16] *spadones*, who were "castrated" in our modern sense; and *thlibiæ*, who were rendered impotent by attrition or crushing (θλίβω). It is probable, for reasons before assigned, that there was also a subdivision of the second class including those who were only partially emasculated. From JUVENAL'S account[17] of the careful supervision exercised by Roman ladies over the castrations of mature victims made for their enjoyment, it is clear that at the time and under the circumstances of which he speaks, the testicles only, or perhaps with the whole or part of the scrotum,[18] were removed. The sufferers became burly as they advanced in life,[19] but not handsome it would seem.[20] Curiously supporting the notion held by the Chinese, the Romans supposed that after castration the penis grew to a great size, so as to challenge comparison with the appendage credited to Priapus[21]. Castration when required to remedy or remove disease was performed exactly in the modern way[22] by accredited surgeons, but even in their hands

[9] *Hist.*, viii. 105, 106.

[10] *Ibid.*, vi. 32.

[11] *Deipnosoph.*, xii. 9, 11.

[12] The priests of Cybele were castrated in order to typify the treatment that ought to be inflicted on those who outraged the divinity of the great mother of gods (LUCRETIUS, *De Rerum Naturâ*, ii. 614; OVID. *Fasti*, iv. 221). They were notoriously addicted to abominable vices (JUV. viii. 176).

[13] LIVY, *Hist.*, xxix. 10, 11, and OVID. *Fasti*, iv. 255.

[14] *Epigramm.*, iii. 91.

[15] The best and most accessible accounts of the *Skoptsy* will be found in the *Revue des Deux Mondes*, 1 Juin 1875, p. 600, and in the *Progrès Médical* 1876, Nos. 51-53, and 1877, Nos. 16, 17.

[16] *Abscissa est quare Samia tibi mentula testa?* (MARTIAL, iii. 81, 3.)

[17] *Sat.* vi. 366 seqq.

[18] *Supervacuam carnem* (JUV. ii. 116).

[19] (JUV. vi. 512 and PERSIUS, *Sat.* v. 186.)

[20] *Hic est vetus, vietus, veternosus senex*
Colore mustellino.—TERENT. *Eunuchus* iv. 4
This is a drousy, wither'd, weazel-fac'd
Old fellow.—COLMAN'S *Translation.*

[21] JUV. vi. 375.

[22] CELSUS, *Medicin.* vii. 22.

Mr. Wood

No. 14] Aug. 6th 1879 United States Consulate General at Shanghai,

Mr. Bailey Consul General. Acd Aug 6 1879 to the State Department,

Subject:—

ABSTRACT OF CONTENTS.

Enclosing Accounts & Returns for 2nd Quarter of 1879

Enclosure No 1 Copy of Requisite for Stationery

" " 2 Form No. 90, with 29 vouchers

" 3 " " 117

" 4 Interpreters Acct with 2 vouchers

" 5 Special Clerk Hire Acct. 1 voucher

" 6 Form No. 120

" 7 Receipt for Stationery at Tientsin &c.

No. 14

United States Consulate General,

Shanghai, Aug. 6th 1879

Hon. Chas. Payson

3rd Asst. Secretary of State,

Washington, D.C.

Sir,

I have the honor to transmit herewith enclosures Nos 1 to being my accounts and returns for the 2nd quarter of 1879 in accordance with Par. 379, Consular Regulations of 1874.

In the Miscellaneous Expenses account, the 3 vouchers, Nos 19, 20 & 21, aggregating $131.75, are for stationery supplied to Mr. O. N. Denny, for use at Tientsin and Chefoo in accordance with his letter, (enclosure No 1). The application was made to this office, because it is almost impossible to procure such stationery as is required for official purposes in Tientsin, and the cost here is very much cheaper. The

articles have been supplied, and the receipt of the same acknowledged.

I have the honor to remain

Your Obedient Servt

David H. Bailey

Consul. General

United States Consulate
Tientsin, March 26th 1879

D. H. Bailey, Esq:
U.S. Vice Consul General
Shanghai

Sir:

I beg to state that this Consulate is entirely out of all kinds of stationery and request that you will kindly furnish me a quantity of despatch, letter and note paper with printed heads, large and medium, (official) and small envelopes, consular clearances, tape, wax, pencils, ink - red and copying and ordinary, rubber bands erasers, two ink-stands, pens and holders, memorandum books, letter press and books, the paper envelopes for the Agency at Chefoo are to be plain.

I am Sir
Your Obedient Svt
(Signed) C. A. Denny
Consul

U. S. Consulate General
Shanghai, China

Enclosure No 1
With
Despatch No 14

Copy of Requisition for Stationery
at Tientsin.

Enclosure No. 1

Despatch No.

JUL 29 1879 GENERAL SHANGHAI

Shanghai May 1st 1879

United States Consulate at Tientsin

To the United States Consulate General, Dr.

	$	ck.
To Stationery &c. (For Tientsin use)		
1/2 ream of Department despatch paper (printed)	9	25
1/2 " " " " (plain)	7	25
1/2 " " Legation " (printed)	9	25
1/2 " " " " (plain)	7	25
1 " " Consulate " (printed)	12	00
1/2 " " Legal cap " (plain)	8	00
1/2 " " Letter " (printed)	4	50
1/2 " " Note " (")	3	00
100 Large envelopes (")	2	50
100 Smaller " (")	2	25
100 Note " (")	2	00
4 Blank memo. books (2 large 2 small)	1	00
2 Cutglass inkstands (2 deposits each)	6	00
1 doz. Leadpencils (black)	1	00
1 " " (blue and red)	1	50
1 box of Rubber bands	1	00
6 pencil erasers (2 large 4 small)	2	00
1 bottle Red ink		75
1 " Copying " (large)	1	25
1 " Writing " (")	3	00
1 Packing box	1	25
1 Copying press (large size)	18	00
1 Blank " book 1.000 pages	4	50
1 " " " 500 "	3	00
Coolie hire bringing to Consulate		25
(For Chefoo use)		
To 1/2 ream of Official despatch	7	25
1/2 " " Letter paper	3	75
1/2 " " Note "	2	25
100 Large envelopes	2	25

100 Smaller envelopes
100 Letter size "
Packing box
" " for Copying press.
Coolie hire

$ 132

Freight prepaid

$ 1

Received from the U.S. Consulate General the abovementioned books, stationery &c. for the use of this Office and the Chefoo Agency

U.S. Consulate. Tientsin July 2d 1879.

Wm. K. Thick
U.S. Vice Consul
in charge

Shanghai China

Enclosure No. 7
With
Dispatch No. 14

Receipt for Stationery and Licenses

No. 15.] August 9th 187 9 United States Consulate General at Shanghai,

Mr. Bailey Consul General. to the State Department,

Subject:— Rainfall in July 1879 & consequent short crop of cotton

DEPARTMENT OF STATE
SEP
29
1879
RECEIVED

ABSTRACT OF CONTENTS.

Reports drouth in July in Cotton Districts, and probable short crop therefrom.

Inclosure.

Rainfall in July 1878 and 1879.

No. 15.

United States Consulate General,

Shanghai, August 9th 1879

Hon. Charles Payson

Third Assistant Secretary of State,

Washington, D.C.

Sir,

I have the honor to report for the information of the Department that the month of July of this year has, in all the Valley of the Yangtze River, been excessively dry; so much so as to excite great apprehensions and to prove seriously unfavorable to all Sumer Crops. The Cotton and Rice were in special danger, and as they are the main reliance of so many millions for food and clothing there was naturally the greatest anxiety among all classes. The Imperial

Government

Government at Peking was so alarmed as to order all officials to pray for rain. For many days in the agricultural regions little could be seen but gatherings supplicating for the needed rain. The Cotton plant was very small and puny, not more than five inches in high when it blossomed and there were few more than one half the usual number of blossoms. The first part of August brought some rain, but not what the parched earth and dry vegetation needed, but enough to materially benefit the rice and Cotton Crops. The farmers still estimate that the years product of Cotton will fall short of a half average yield. Such estimates

are

are usually exagerated by fear.
From all the information I can
obtain, I am of opinion that the
Cotton crop will fall short about
one fourth.

A seasonable rain-fall will
go far to save the rice product.
Herewith I enclose a table of the
rain fall for the month of July
of this and last year.

I have the honor to be
Sir,
Your obedient Servant
Emil H. Sieg
Consul General.

Rainfall at Shanghai

July 1878		July 1879	
Date	Millimètres	Date	Millimètres
1	0, 6	1	1, 5
2	20, 4	2	. .
3	. .	3	. .
4	18, 0	4	. .
5	5, 1	5	. .
6	. .	6	. .
7	0, 6	7	12, 0
8	. .	8	. .
9	. .	9	2, 8
10	. .	10	. .
11	. .	11	. .
12	0, 5	12	0, 2
13	1, 2	13	. .
14	. .	14	. .
15	7, 8	15	. .
16	3, 9	16	. .
17	38, 4	17	. .
18	28, 5	18	. .
19	4, 7	19	. .
20	. .	20	. .
21	. .	21	. .
22	. .	22	. .
23	. .	23	. .
24	. .	24	. .
25	. .	25	. .
26	. .	26	. .
27	. .	27	. .
28	. .	28	. .
29	. .	29	. .
30	. .	30	. .
31	30, 1	31	6, 4
	Total 159, 8		Total 22, 9

Shanghai China

Molarus

Unit

Dispatch No. 16

Ranking of
Shanghai Duty
178 - 1879

M Wood

No. 16.] August 16th 187 United States Consulate General at Shanghai,

Mr. Bailey Consul General. to the State Department,

Subject:— Chinese Naval Forces

ABSTRACT OF CONTENTS.

Gives an account of Chinese Dock-Yards and Arsenals

Inclosure

List of Chinese War Vessels

No. 16.

United States Consulate General,

Shanghai, August 10th 1879

Hon. Charles Payson

Third Assistant Secretary of State,

Washington, D.C.

Sir,

In view of the existing complications between the Imperial Governments of China and Japan, which have grown out of the disputed Sovereinty of the Loo-choo Islands, and of the possibility of war arising therefrom, I have thought that any information concerning the Naval and Military forces of China would be of interest to the Department. I have, therefore, the honor to submit some facts and figures relating thereto and some observations

observations upon the same.

While I do not propose to review to any extent the military history of this Empire, any Estimate of the military forces and possibilities of this people which does not bear that history in mind will be a narrow and faulty one.

The Mongol-Tartar-Chinese progenitors of the present people have a history of conquest more remarkable than that of any other people since the Commencement of the Christian Era.

The Mongal-Tartar dominions extended from the Yellow Sea, on the East, to the Red and Mediterranian Seas, on the West, from the Indian Ocean, on the South,

to the Baltic, on the North. At one time they held nearly one half of what is now Modern Europe, and defeated and Conquered the Hungarians and Poles, the bravest and most warlike peoples of that time in Europe.

Down to within two hundred years they have been a conquering race, and the history of their great conquests have been made familiar to all classes through their popular literature, their drama, and their songs and stories heard, daily, upon every Street Corner and road side. These cherished traditions of heroism and prowess have kept alive a pride and Confidence that will show in a war with an

an alien race.

It is true that up to the Taiping Rebellion in 1849 there had been nearly two hundred years of peace, which had unfitted the people for vigorous war efforts. Their war of that rebellion, raging furiously for seventeen years, bringing into the field many hundreds of thousands of men, gave the people and their leaders a new spirit and experience. Ward, Burgevine and Gordon proved that these people, properly organized, equipped and drilled, are not to be despised as soldiers. They are healthy and hardy, and can march long distances on rations which would starve any-

any European Soldier.

Their re-conquest of Eastern Turkestan, utterly defeating those warlike people, is some proof of their soldierlike qualities.

They have been a commercial people for hundreds of years, maintaining large fleets of sea-going vessels. They are called bold and skillful sailors, and the Chinese pirates have been known as daring and desperate.

Soon after the war with the allies in 1860 the progressive party headed by Li Hung-Chang, the Conqueror of the Taipings, and Tso-tsung-tang, the Conqueror of Turkestan, in, augurated a general reorganization of all the land and naval forces.

Dock yards and an Arsenal were established near Shanghai, where several Iron clads have been built, launched and equipped.

Heavy and field guns, breech loading rifles, and small arms have been manufactured.

At Foo-chow, still more extensive works were built and placed under charge of a Frenchman. They have building ships, rolling mills, Engine works, blast furnaces, and machine shops, in short, all the means for constructing first class Vessels of war and their complete equipment.

Twenty one ironclads have been built at these Foochow docks, twelve of which are of more than one thousand tons displacement.

Near Tientsin the Viceroy, Li Hung-
Chang, has constructed complete
works of the same character as
those at Foochow. For ten years
Employés from Wollwich, England,
have had supervision of them, and
have instructed a large corps of
men in every branch of shipbuilding,
and the manufacture of arms and
munitions of War. There are also
Arsenals at Nanking and Canton
where breech-loading rifles and
small arms and their ammunition
are manufactured. In addition
to all this many war vessels
have been bought from Europe,
as well as large numbers of heavy
Krupp guns, the latest infantry
and Cavalry, and field batteries.

Forts have been built at the mouths of their rivers and the entrances to their bays and harbors. Electric torpedos have been laid in some places. Several steel-clad gunboats, with all the machinery below the waterline, are now in the course of construction on the river Tyne.

As to the condition of their army reliable data cannot be readily obtained. The conquest of Turkestan, two years since, was chiefly attributable to the use of Gatling Guns and Remington rifles. It is believed that much has been done by the two Generals Tso-Tsung-tang and Li-Hung-chang within the

the last four or five years in the way of a thorough re-organization of the various branches of the land forces.

Herewith I enclose as complete a list of the Chinese Naval forces as is available.

I have the honor to be

Sir,

Your Obedient Servant

Jas. H. Laidlay

Consul General

The Strength of the Imp. Chinese Navy

Name	Guns	Tons	Men	Class	Built	Remarks
Kan Niang King	7		180	Comp. G. Bt	Foochow	6 Armstrong Breech Load 56-prs 1 9-ton, 150 pr Shot
Pei Yune	5		100	"	"	4 Br. Ldg 56-prs 1 7 ton G. 100 pr Shot
Hok Seng	5		100	"	"	"
Foo-Poo	7		180	"	"	Same Guns as No 1.
Ting-Hai	5		100	"	"	" " " 2
Yung-Woo	11		350	Comp Corvette	"	1. 11 ton Gun 8. 56-pr br: Ldg Brass 2 28-pr Howitzer Brass
Pei-Yune	7		180	Comp G. Bt	"	Guns as No 1.
King Yuen	5		100	"	"	" " 2
Ching Wei	5		100	"	"	" " "
Che-an	7		180	"	"	" " 1
Ning-po	2		90	Wood Transpt	"	2 28-pr Brass Howitzer
Kai-chang	None		90	"	"	
Ting-hau	"		90	"	"	
Wo-Kai	7		180	Comp G. Bt	"	Guns same as No 1
Nie-Sing	5		100	"	"	" " " 2
Ing-Ing-Chew	7		180	"	"	" " " 1

Name	Guns	Ton.	Hor	Class	Built	Remarks
Kiu-an	7		180	Comp. G. Bt	Foochow	Guns as No 1
Yei-Tuan	7		180	"	"	"
Chung-Wo	7		180	"	"	"
Hai-Tung-Tuen	3			Despr. Bt	formerly American Str Island Gunb	
Kong Shing	3			G. Bt.	old British GB	
Ing-Sing	1		40	Com. G. Bt	Foochow	38 ton Gun
Ching-Hai	3		60	"	"	
Kong-Sing	1		40	Iron	England	31- ton Gun
Alpha	1		40	Iron G Bt	"	38 ton Gun
Beta	1		40	"	"	"
Gamma	1		40	"	"	"
Delta	1		40	"	"	"
In-law	7	221	80		Foreign	Mostly Commd by Foreigners, duty under order of the Vice Royalty Canton
Tents	7	"	80		"	"
Ching Sing	6	180	70		"	"
Ching-On	2	127	60		"	"
Ching-po	6	180	70		"	"
Kiang-on	4	120	60		"	"

Name	Guns	Ton.	Men	Class	Built	Remarks
Sin Tsing	4	180	70		Foreign	Same as 29-34
Tsing-po	3	100	55		"	" "
Hsiao-Kiang	5		120	Comp. S. Bt	Sh'ai Arsl	4. 56-pr Br. Chas 1. 7-ton "
Chi-hai	5		120	"	"	"
Wai-ching	5		120	"	"	"
Hai-an	26		600	Wood Frigte	"	24-56pr Br. Cyl 2- 12-ton "
Yu-Yuen	26		600	"	"	"
Soo-too	3			Despr. Bt	England	12-pr. brass
Ling-feng	3		30	Revenue Cr	Foreign	Foreign Comdrs under Supt. of Customs
Fei-hoo	3		80	"	"	"
Kwa-shing	3		80	"	"	"
Chee-hing	2	30	20	" launch	"	Comrs partly Foreign & Chinese
Chien-Lui	3	80	60	" "	"	"
Ching-on	2	20	20	" launch	"	"
Tchun-tung	2	150	80	Rev Cr.	"	"
Pangchaohai	4	600	120	"	"	"
Shen-chi	4	180	60	"	"	"
Li-she	3	100	40	"	"	"

U.S. Consulate General

Shanghai China

Inclosure
With
Dispatch No 16.

List of Chinese Ports
Open.

Document Number

File 0B
Inclosure in No 29 Dec 3/78
29, Consular Letters Shanghai Ltr.

Rec'd at Wash Oct 9 1879

W. O'Connor

W. O'Connor Esq. Dear Sir

No. [7] Aug. 12 1879

United States Consulate General at Shanghai.

Mr. Bailey Consul General. to the State Department,

Read Dec 23. 1879.
Re Judge O'Connors opinion Aug 31. 1879

Subject:— Legal opinion delivered in re Estate of Edwin Maurice Smith deceased.

ABSTRACT OF CONTENTS.

Transmits opinion in re Estate of Edwin Maurice Smith deceased

No. 17

United States Consulate General,

Shanghai, August 12th 1879.

Hon. Charles Payson

Third Assistant Secretary of State,

Washington, D.C.

Sir,

Referring to Department Despatch No. 9. dated the 9th of June, and to My Despatch No. 13. dated the 29th of July, relating to the Estate of Edwin Maurice Smith, deceased. I have the honor to transmit herewith a copy, in print, of a decision which I, sitting as Judge, in Probate, in the Matter of that Estate delivered on the application of John Petrie Birch for the Probate of the Will and the issuance of Letters Testamentary.

I.

I have the honor to be,
Sir.
Your obedient Servant
[illegible]
Consul-General

IN THE UNITED STATES COURT FOR THE CONSULAR DISTRICT OF SHANGHAI, CHINA.

Shanghai, Aug. 11th.

Before D. H. Bailey, Esquire,

Consul General,

Sitting as Judge.

In re the Estate of Edwin Maurice Smith, deceased. } Application of John Petrie Bisset for Probate of will and issue of Letters Testamentary.

R. E. Wainewright, Esq.,

For Petitioner.

J. J. Henderson and W. V. Drummond, Esqs.,

For Estate and Beneficiaries in America.

JUDGMENT.

This is an application by John Petrie Bisset, a British subject, residing in Great Britain, for probate of a will of Edwin Maurice Smith, deceased, a citizen of the United States, late of Shanghai, and that letters testamentary may be issued thereon to the said John Petrie Bisset.

The petition avers, in addition to the facts above stated, that the said Smith made and duly executed his last will and testament, bearing date 1st October, 1870, and thereof appointed Thomas Hanbury and the petitioner the executors and trustees, and that while making the said last will and testament, the said Smith was temporarily residing at the Charing Cross Hotel, in the county of Middlesex, in England; that said Smith died in Shanghai on the 19th day of November, 1878; that the said Thomas Hanbury, by an instrument, in writing, duly executed, renounces his right and authority to act as an executor of said will; that on the 8th day of March, 1879, the said will was duly proved by the petitioner in H. B. M.'s High Court of Justice in England, the value of the personal estate of the deceased in England being sworn to be under the sum of £3,000 sterling; that the said E. M. Smith died, seized and possessed of real estate situated in Shanghai, valued at 625,000 Shanghai Taels, and personal estate in Shanghai valued at 31,000 Shanghai Taels; that none of the heirs of said Smith, and none of the divisees or legatees under his said will are resident in Shanghai or elsewhere within the jurisdiction of this Court.

The Attorney who represents the estate, and the heirs and beneficiaries of the deceased in the United States, objects to the issuance of letters testamentary to the petitioner upon the grounds:—

1st.—That upon the facts disclosed by the petition of said Bisset he is not a competent party to obtain probate and letters testamentary as prayed, he being an alien and residing out of the jurisdiction of this Court.

2nd.—That this Court is the only Court of original jurisdiction for granting probate of the will in question.

3rd.—That the petitioner is named in the will set out as trustee and executor, and as appears by the petition is legally incompetent to act as such.

There are two questions of importance to be considered:—

1st.—Whether upon proof of probate of the will in H.B.M.'s High Court of Justice in England, and letters testamentary thereon issued by that Court to the petitioner, this Court will *ex comitate* grant probate by issuing letters testamentary to the petitioner as executor and trustee.

2nd.—Whether the petitioner, being a British subject and not within the jurisdiction of this Court, is legally incapable of exercising the office of executor and trustee under the will of the deceased with respect to the estate in Shanghai.

The Court, in ascertaining the law by which it is bound, must look to the Acts of Congress creating the Court, and the system of jurisprudence thereby established for its guidance, and not to the local laws of the several States. In general terms the Statutes of a particular State operate only within the territorial limits of that State, and therefore the Statutes of California and other States, cited in the argument, even if they go as far as is claimed, which I think altogether doubtful, are not in force here. Section 4,086, Revised Statutes of the United States, provides the rule of law for this Court clearly and unmistakeably. This, then, is a case coming within the common law, equity and probate jurisdiction of the Court.

Looking to these three branches of jurisprudence, the law seems to be well settled by the authorities both in America and England:—"That the domicil of the deceased is the place of *primary* and exclusive probate jurisdiction."—12 American Reports, Leonard v. Putnam, p. 106; 5 English Law Reports, Miller *v.* James, *et al* p. 502; Williams on Executors, vol. 1 (7th ed.) p.p. 362, 363, 365, 366. "When the Court of Probate is satisfied that the testator died *domiciled in a foreign country*, and that his will containing a general appointment of executors, has been duly authenticated by those executors, *in the proper Court in the foreign country*, it is the duty of the Probate Court in this country to clothe the foreign executors with ancillary letters of probate to enable them to get possession of that part of the personal estate which was locally situate in England."—Williams on Executors, vol. 1, p. 370.

"In general the English Courts of Equity will restrain the representatives and legatees of an estate, where the testator died domiciled in England, from taking proceedings in a foreign Court to administer the personality; and they will not be allowed to take proceedings abroad, in regard to the administration of realty there located, if by so doing the administration of the personality, in the domestic forum, will be embarrassed"—Story's Equity Jurisprudence, sec. 589; Hope v. Carnegie, 12 Jur., N. S., 284.

In the argument, Counsel for the Petitioner raised a doubt as to the place of domicil of the deceased, —and this is material to the case. The question of domicil must determine the place of original and exclusive probate jurisdiction. There has been much learning exhausted upon the subject of domicil, and the possibility of the existence of two domicils. But it is not difficult to decide in this case where the deceased had his domicil. The language of the will is:—"I, Edwin Maurice Smith, of Shanghai, in the Empire of China, but now temporarily residing at the Charing Cross Hotel, in the county of Middlesex, England, hereby declare, &c., &c., &c." The averments in the petition are to the same effect, and that the said Smith was a citizen of the United States of America.

Many definitions of domicil have been given, but, says Phillimore (International Law) vol IV. page 48:—"Perhaps, however, the American Judges have been most successful in their attempts, and from a combination of their *dicta* upon different occasions, we may arrive at a tolerably accurate definition in designating it a residence at a particular place, accompanied with positive or presumptive proof of an intention to remain there for an unlimited time." Guier v. Daniel, 1 Binney's Reports, 349, note; Ebbers *v.* Kraft 16 Johnson's Reports, p. 128. The Francis, eight Cranch; Johnson's Sundry Articles of Merchandise, Peter's Condensed Reports of cases in the Supreme Court of the United States, vol. III, p. 171. According to Vattel, "Domicile is an habitation fixed in some place with an intention of remaining there always" Vattel's Droit des Gens, l.i.c. xix. s. 218 du Domicile. There is not an iota of domicil in such a residence as that of the deceased at the Charing Cross Hotel. Admit the possibility of two domicils in this case, the domicil of choice and the domicil of origin, for the original domicil may be preserved by the effect of a treaty (Phillimore, vol. iv. p. 190), still the domicil of the deceased was at the time of his

death within the jurisdictional limits of this Court, where his realty is situate, the primary and exclusive place for probate of his will. Changing the phraseology of the petition, but not the substance, it says:—Edwin Maurice Smith, of Shanghai, a citizen of the United States temporarily residing at the Charing Cross Hotel, &c., &c., &c.,—and who died at Shanghai November 19th, 1878. By what accepted rule of interpretation can this be held to be a domicil other than that within the primary and exclusive jurisdiction of this Court. The deceased not being domiciled in England, the *rei sitæ* and the commorancy both being within the jurisdiction of this Court, upon what principle or precedents is it to be held that the probate of the will and granting letters testamentary there, binds this Court, in law or comity, to appoint an executor and trustee whereby it ousts its own original and exclusive jurisdiction.

A potent reason for the rule that the place of domicil is the place of primary and exclusive probate jurisdiction, is that there the deceased had fixed the seat of his fortune, the centre of his negotiations, and the accumulations of his property —it was the place of his choice and predilection, where all his affairs centre and determine.

The remaining question as to whether the petitioner, being a British subject not within the jurisdiction of this Court, is legally incapable of performing the office of executor and trustee, is perhaps not so simple. He is appointed by the testator in the deed of trust as one of the executors and trustees, and it is a well settled rule that the Court should have regard to the wishes of the person by whom the trust has been created, if expressed in the instrument creating the trust or clearly to be collected from it. The appointment of a trustee thus made will not be set aside, except for weighty reasons. The testator is to be permitted to dispose of his property to such persons, through such persons, and for such purposes as to him shall seem meet and proper, provided this disposition is not made in conflict with law. The objection is made that the petitioner, being an alien not domiciled within the jurisdiction of the Court, cannot lawfully execute the trust. The general jurisdiction over trust estates belongs to Courts of Equity, and they will not allow the management of such estates to pass beyond their control, for it is the duty of such Courts to enforce the execution of trusts. In the case of a trust estate within the jurisdiction of the Court, the trustee or trustees thereof being without its jurisdiction, it is clear that the Court would have little or no power in its supervision over the management of the estate. The trustee would not be within reach of the process of the Court, nor amenable to its orders or decrees. The confusion and the injuries which might ensue to an estate, and all its interests, so situated, have been guarded against by what now seems to be the settled doctrine in America and England, as defined by Lewin's Law of Trusts p. 27. "In general terms, a person to be a trustee should be a person capable of taking and holding the legal estate, and possessed of natural capacity and legal ability to execute the trust, and *domiciled within the jurisdiction of the Court.*"

"If a trust is cast upon a person *incapable* of taking and executing it, Courts of Equity will execute the trust by decree, or they will appoint some person capable of performing the requirements of the trust." Perry on Trusts, vol. I, par. 39.

"If property has been bequeathed in trust, and no trustee, or a trustee *disabled from taking*, or one who is dead, or refuses to take, is appointed, the Court will decree the execution of the trust by the personal representatives, if it is personal property, and by the heirs and devisees, if it is real estate." Perry on Trusts, vol. 1, par 38; Piatt *v.* Vattier, 9, Pet. 405; Gibbs *v.* Marsh, 2, Met. 243; Withers *v.* Yeaden, 1, Rich. Eq. 325! Cushney *v.* Henny, 4, Paige, 345; De Baranti *v.* Gott, 6, Barb. 492; Malin, *v.* Malin, 1, Wend. 625; McIntire *v.* Zanesville, C. and M. Co., 9, Ham. 203; Kerr *v.* Day, 14, Penn. St. 114.

"If the alien be domiciled abroad it is an objection to his fitness for the office of trustee, as he is not amenable to the jurisdiction of the Court." Lewin's Law of Trusts, p. 37; Spence's Equitable Jurisprudence, p. 32; Perry on Trusts, vol. 1, pars. 55, 275, 276, 818. *In re* Harrison's Trusts 22 L. J. (Ch.) 69, *In re* Guibert, 16 Jur. 852.

The petitioner is a British subject residing and domiciled in Great Britain, but were he domiciled in Shanghai, it would not change his *status* in this case, for the jurisdiction here being only personal, not territorial, he would not be amenable to the orders of the Court.

In the argument, two precedents in this Court are cited, but there is nothing to show that the questions presented here arose or were presented in those cases,—cases which doubtless were heard on *ex parte* applications, and it rarely happens that *ex parte* proceedings settle important principles.

The current of authority in the Courts of the United States seems to be clear and strong against non-resident aliens acting as trustees, especially concerning chattels real, and real estate.

The reasons which apply against the petitioner as trustee apply with equal force against his acting as executor.

"If the executor named in the will, or the next of kin, be out of the kingdom, the Ecclesiastical Courts have, as they always have had the power, before probate obtained, or letters of administration issued, of granting to another limited administration *durante absentia*. Lord Holt said it was reasonable there should be such an administration, and that this administration stood upon the same reason as an administration *durante minore ætate* of an executor, viz., that there should be a person to manage the estate of the testator till the person appointed by him is able. Williams on Executors, vol. 1, page 502.

In this case the absence and inability of the petitioner is necessarily perpetual, since he can never be within the jurisdiction of the Court which has sole jurisdiction of the estate. By the 55th Rule of the Regulations governing the United States Consular Courts in China, the law of the Ecclesiastical Courts is made a part of the law of this Court.

The argument that another "competent and powerful" Court could administer the law is not an answer to these principles settled and enunciated by the Courts of England and America. Certainly that Court would administer the law clearly, justly, and with an even hand, according to its juridical system; but this is not a question of comity between Courts, it is a question of jurisdiction, and it is a digression of argument to say that another Court would administer the law properly. The *original* and *exclusive* jurisdiction belongs to the Court of the United States as provided for by Treaty and the laws of Congress,—it is in respect of the property of a citizen of the United States in which other citizens of the United States have a very large interest and concerning whom the rules of procedure, the interpretation of wills, the policy of American law as to trust estates, and the Court of Appellate Jurisdiction may be of the first importance, as contradistinguished from the different rules and course of trial, original and final, in the Court of another nation.

The jurisdiction of a Court once properly obtained in a particular case, as in this case, will not be relinquished for mere convenience, especially if that jurisdiction is to be ousted in contravention of law.

"When a state by its own code speaks positively on a subject, it must be obeyed by all persons who are within the reach of its sovereignty." Story's "Conflict of laws," paragraph 23.

Interpreting the question of the jurisdiction of United States Consular Courts in China, the then Attorney General of the United States, Hon. Caleb Cushing, says:—"This point is determined very explicitly in our Treaty with China, which in the most unequivocal terms, places all the rights of Americans in China, whether as to person or property, under the *sole* jurisdiction, civil and criminal, of the Authorities of the United States, and Congress has made provision to meet the exigencies of the treaty in this respect." Opinions of Attorneys General, Vol. VII, p. 28. This opinion is quoted with approval in Wheaton (International Law) 6th ed. p. 312. The Court cannot relinquish its prerogatives, nor recede from its obligation under the Treaty.

"No nation being under any obligation to yield up its own laws in regard to its own subjects, to the laws of other nations, it will not suffer its own subjects to evade the operation of its own fundamental policy or laws, nor to commit frauds in violation of them, by any acts or contracts made with that design in a foreign country, and it will judge for itself how far it will adopt, and how far it will reject any such acts or contracts." Story's conflict of laws—par. 106.

"No nation is under obligation to do anything prejudicial to its own authority, or to the rights of its citizens.—Story's "Conflict of Laws" par. 512.

It is the duty as well as the right of every Government and its Courts to protect its own citizens in the enjoyment of their property within its jurisdiction, observing the equal rights of others. 3rd Pick. R. 128.

"Even the property of individuals is, in the aggregate, to be considered the property of the nation, with respect to other states. It, in some sort, really belongs to her, from the right she has over the property of her citizens, because it constitutes a part of the sum total of her riches, and augments her power. She is interested in that property by her obligation to protect all her members." Vattel, p. 164.

These principles, which are expedient and politic, and which flow from and depend upon the reciprocal relations and duties of the state and its citizens, apply with peculiar force in this case.

A nation cannot be expected to surrender its authority over the persons and property of its citizens when the person and property are within the limits of its territory or under the

jurisdiction of its Courts, and permanently of that jurisdiction in a foreign country is provided for by treaty to be sole and exclusive. To transfer that jurisdiction to another foreign forum would be a violation of a compact by treaty, and an abandonment by the State of its obligation to protect the persons and property of all its members, by its own laws, in the mode of their operation, in whatever way they may be peculiar to its own polity, and in accord with the system of its sovereignty, for every nation in the exercise of its sovereign will establishes systems in unison with the genius of its people.

"As it is an incident to the Sovereign Power of every Independent State to have authority over all persons residing or being within its borders, so it is an incident to the same power to have authority over all things or property of every description within its borders." Phillimore ("International Law") Vov. IV., p. 407.

In this case the ex-territorial borders of the United States extend by treaty so far as to give the sole and exclusive jurisdiction over the property of the deceased to this Court, and this is not only a prerogative of the Court, but it is obligatory and mandatory on the Court in so far as the protection of every American interest is involved.

Beside the American beneficiaires there is a Chinese subject named in the will as a *cestui que trust*. In case of litigation between the latter and the former, this is the only foreign forum for the arbitrament of their rights and the enforcement of a decree against the estate.

In a controversy between the American beneficiaires, or the heirs at law, concerning their rights in the estate, it is clear that the American forum is the only one in which these rights can be adjudged. Suppose they are so adjudged, how can the decree of the Court be enforced against a trustee holding the legal estate, and who is not only not domiciled within the jurisdiction of the Court, but who even were he in the Court room at this moment, or at any time, as such trustee and executor, or otherwise, would still be without the jurisdiction of the Court?

Thus the granting of letters testamentary to the petitioner would be a total and final surrender of all jurisdiction or authority over the estate of the deceased by the authorities of the United States, in derogation of the treaty with China by which the tribunal for litigation between the citizens and subjects of the two countries is agreed upon and fixed; and, contrary to guarantees of law and treaty, changing the forum of first and last resort in which citizens of the United States are to have their rights of property heard and adjudicated.

I conceive that the management, and all the substantial interests of the estate, and of all those who are concerned in it, can only be controlled and determined within the jurisdiction and by the authority of the Courts of the United States.

I see no objection to the probate of the will upon application duly made, but I must refuse an order granting letters testamentary to the petitioner.

"It is a rule that admits of no exception, that equity never wants a trustee, or, in other words, that if a trust is once properly created, the incompetency, disability, death, or non-appointment of a trustee shall not defeat it." Perry on trusts, Vol. 1, p. 38. Therefore at an early day it will become necessary for the Court to appoint two trustees to carry out the will of the testator.

The costs of the application will be taxed against the petitioner.

At the conclusion of the judgment,

Mr. Wainewright suggested that, inasmuch as the petitioner had been appointed in the will as executor and trustee, it was his duty to apply and ascertain whether he was capable of exercising the trust. He would do so as a duty. This being the case it was scarcely fair to tax the costs against him; they ought properly to be taxed against the Estate.

Mr. Henderson said he was not prepared for any such an order being made at present. It was the duty of the Trustee to take legal advice as to his right, and if he had taken such advice, and it was not good advice, and he had acted upon it, he must be responsible for the expenses and not the Estate.

Mr. Wainewright said he had taken legal advice, and that of an American lawyer.

Mr. Henderson said there were many bad lawyers in America.

The Consul General said that there was, certainly, a great deal of force in what Mr. Wainewright had stated, and he was inclined to view his contention with favour, but as some objection had been offered to it on the other side by Mr. Henderson, it would be better that the question should remain open for the present for either party to move in the matter.

Mr. Drummond referred to the last part of the judgment, stating that the Court would consider it necessary at an early day to appoint two trustees to administer the Estate, and said that, inasmuch as the beneficiaires were represented here by two attorneys in fact—Mr. Forbes and Mr. Hich—he desired to know whether the Court would consider it incumbent upon itself to still continue to take the initiative in the obtaining of probate and the appointment of the trustees, or whether it considered it would be now incumbent upon the beneficiaires, through their attorneys, to take the initiative in such proceedings. He thought that the beneficiaires, through their attorneys here, were now the proper and only persons to take these necessary steps to obtain probate of the will and to apply to the Court for such measures as they might think necessary to arrange for the administration of the property. This being so, he would like to ask His Honor if he considered that that view was correct, or if he considered the Court was bound to take the initiative in any further steps that were to be taken.

His Honor said that as the beneficiaires were now represented here by two attorneys in fact, who had received powers of attorney, it was the same as if the beneficiaires were themselves here, and the duty devolved upon them to take the initiative, and they should make the application for letters of probate and letters testamentary.

The Court then rose.

General

Shanghai China

In charge

Work

Dispatch No. 17,

Legation of China in re

Japanese Estate

McWood

Rec'd 9/6

No. 18.] August 13th 1879 United States Consulate General at Shanghai,

Mr. Bailey Consul General. Acct. Rec'd 6/19 to the State Department,

Subject:— Circular sent to Subordinate Consulate.

DEPARTMENT OF STATE SEP 29 1879 RECEIVED
DEPARTMENT OF STATE SEP 1879

ABSTRACT OF CONTENTS.

Transmits copy of circular sent to sub-ordinate Consulate.

Inclosure

Copy of circular sent to Consulate in China.

No. 219

United States Consulate General,

Shanghai, August 12 1879

Hon. Charles Payson
Third Assistant Secretary of State,

Washington, D.C.

Sir,

Referring to Department Despatch No. 6. bearing date June 6th. and to my despatch No. 6. of the 25th Ultimo, relating to the inquiry of # Communications from the # Consulates in China. I have the honor to enclose a copy of a Circular addressed to all the Subordinate Consulates upon that subject.

I have the honor to be
Sir,
Your obedient Servant

Saint Hilaire
Consul-General

Copy

Circular

United States Consulate General

Shanghai August 1st 1879.

. . . . . Esquire

Consul

. . . . . .

Sir

This Consulate General is in receipt of a dispatch from the Department of State under date of June 6th relating to the infrequency of communications from the various Consuls in China, and in which I am instructed to issue a circular to the Consuls within my jurisdiction informing them "that the Department is displeased on account of the infrequency of their dispatches and

and directing them to communicate oftener and more generally with the Department"

Consuls in addition to their other functions are Agents of the Government, appointed to watch over the Commercial rights, interests and privileges of the Nation. They are not only to conserve the Commerce of our Country as it now exists, but they are to assist in its spread and development. Every Consulate should be a Bureau for the Collection and Conveyance of accurate information Concerning every material interest within the Consular District and every member of each Consular

Staff

Staff should be active in this work under the direction of their Chief, the Consul.

All the facts relating to the Government, local and General, Religion, Education, Social and Domestic life, Trade, internal and foreign, manufactures, Agriculture and the possibilities of each district of this most populous Empire in the world have an important bearing upon the present and future Commercial relations of China with the United States.

At present the United States, with a population greater than most of the Commercial Nations of the world, and with resources for Commerce second to none,

Commands

commands little more than 6 per cent of the foreign trade of China

It is incumbent on our Consuls in China to furnish such information to our manufacturers Merchants and Agriculturists, through the State Department, as will enable them to place our nation in the front rank and compete successfully with other nations for this growing Commerce of the East.

Believing that our Consular Service in China fairly represents the intelligence and activity of the Nation in all that tends to social, moral and material advancement, it is expected, with Confidence of that

service

that service that full and reliable information in whatever may subserve the ends named shall be frequently furnished to the Department of State

I invite your attention to an early acknowledgement of this Circular.

I have the honor to be

Sir,

Your Obedient Servant

(sig) David H. Bailey

Consul General

Judge O'Connor

Shanghai.

August 12th 1879

File with Shanghai disputes

Estate of the late

Edwin Maurice Smith.

Judgment of Consul General
Daly in the matter of the
petition of John Petrie Bisset
for the probate of the will
of Edwin Maurice Smith, and
that letters testamentary may
be issued thereon to the
said John Petrie Bisset.

Extract from.

TH

North-China Herald

AND

SUPREME COURT & CONSULAR GAZETTE

VOL. XXIII., No. 637. SHANGHAI, AUGUST 12, 1879. PRICE, TLS. 12 Y A

the telegrams sent and the transaction generally, and I did so. This was after Mr. Shaw's bankruptcy, but we had not got into Court. I think it quite possible, as a business man, that if the bank had known the nature of the telegrams before they bought the bills, that they would still have bought them. I handed the bills to a broker, and did not deal with the bank direct. I did not give the broker any particular instructions as far as I remember. The bills I sold were both documentary and clean bills, but the bills representing the £6,458 were all clean bills. The first bill on account of the £6,458 was sold, I think, on the 5th July, 1878. The bills were drawn out in the usual way, and were, I believe, all for an odd amount. The bill on the 5th July was for £1,270 4s. 9d., and there was another the same day for £716 19s. 4d. These were on account of the £6,458, and were clean bills. Then there was a bill against documents for £296 12s. 1d.; and on the next day another bill against documents for £805 19s. 9d., and another against documents for £1,329 1s. 9d. These, were bills against documents. On the 9th July, 1878, clean bills were drawn on account of the sum of £6,458, for £970 18s. 4d., £1,020 17s. 11d. and £898 14s. 7d.; and on the 17th July, 1878, another clean bill was drawn for £1,580 17s.4d. There were thus six clean bills given amounting together to £6,458 12s. 3d.; and all these bills were for odd amounts. It has been the custom with us for the last thirteen years to draw clean bills for odd amounts. I cannot give any reason for doing so, except general orders from Home thirteen years ago. It was not done for the purpose of making these bills look as if they represented the balances of accounts. It was simply done to prevent two bills being for the sum and done under order. The proceeds of the six bills were remitted by telegraphic transfer, I think.

Mr. MYBURGH—I should like to know the names of the banks that made the transfers, and the names of the broker in each transaction.

BANKRUPT continued—On the 5th July, 1878, £1,100 were remitted through the National Bank of India. I do not know the broker's name; I did not pay him. I was not liable for the brokerage, and therefore did not take the broker's name. The bank paid the brokerage. Mr. Fergusson was the broker who sold the bills. I think he sold all of them, both the documentary and clean bills, but I am not sure. The remittance of £1,100, through the National Bank, was at the rate of 5s. 2¼d. On the 9th July I remitted £3,300, rate 5-2¼, through the Hongkong and Shanghai Bank; and on the 12th July, I remitted £1,300, at a rate of 5s. 2¼d., through the National Bank of India. None of the remittances were sent through the Oriental Bank. The Oriental Bank was not avoided. They were the buyers. I do not think I told the brokers that the Oriental Bank had bought the bills. I did not instruct the brokers as to which banks they were to obtain the transfers at. My offices are next door to the Oriental Bank. If a bank is known to be buyers, it is not likely that the brokers would go to that bank to sell. It is not natural that they should go to the nearest bank under the circumstances; they would go where they could get the highest rate. I cannot answer for what brokers do. I did not give them any instructions as to the banks they should go to, and I do not think I asked them whether they went to the Oriental Bank. In addition to the three remittances I have mentioned I remitted £600 on the 20th July, through the Hongkong and Shanghai Bank, the rate being 5s. 2⅝d. The six clean bills I sold amounted to £6,458 12s. 3d., but the amount remitted was £6,300. The six bills were all drawn on Mr. Charles Shaw's general account. On the 20th July I advised account sales showing a loss against Charles Shaw and Co. of £240 5s. 2d., which I placed to their debit. Under ordinary circumstances I should have drawn on Charles Shaw and Co. for this loss of £240 5s. 2d. About this time, July, 1878, I was shipping both tea and silk. On the 19th July, I shipped 40 bales of silk, and on the 27th July, I shipped 14 bales more. I drew bills against these goods on Charles Shaw and Co. and sold them to the Oriental Bank. The whole of the 54 bales were shipped on our account, that is on Shaw, Ripley and Co.'s account. I gave the bank a memorandum of the silk shipped which was not on our account. There was some by a Chinaman and some by Mr. Cromie. On the 24th August, 1878, Mr. Cromie shipped 24 bales of silk, through our firm, and we drew bills on Charles Shaw and Co. and sold them to the Oriental Bank. On the 22nd June there was a lot of 10 bales, shipped by the *Sunda*, through our firm, by a Chinaman named Tee San. We drew on this lot also and sold the bills to the Oriental Bank. These two transactions are included in my statement of accounts under the head of the Oriental Bank. The Chinaman's name Tee San does not appear, but it will appear in Shaw, Ripley and Co.'s book debts as soon as the Oriental Bank furnish the account sales. The Oriental Bank sent me a memorandum showing the loss on the shipments of silk before I made my statement of accounts in bankruptcy, but it only gave the gross amount and I could not make up the accounts from that. The Chinaman has not proved against the estate. I cannot say whether he is a debtor or a creditor until I get the account sales. I gave the bank particulars of these two transactions. After my failure, I told them that the shipments were all on our account except these two. With the exception of these two shipments no third party was interested in any of our shipments of silk. Some of the shipments were on joint account with Charles Shaw and Co.

By Mr. ROBINSON—I have been afforded no further facilities by the Oriental Bank since Mr. Robertson was manager, other than I received before. It has always been my practice during the time I have been in partnership with Mr. Charles Shaw to sell clean bills on him. I have done this every year. I was enabled to do so on the Shanghai market up to the end of July, 1878. In the early part of 1878, in January and April, I sold similar bills on Mr. C. Shaw to the Hongkong and Shanghai Bank and the Chartered Mercantile Bank, and these bills were met—they were duly honoured. During the whole of my experience of Mr. C. Shaw not one of his bills was dishonoured until these bills for the £6,458 were dishonoured. These six clean bills, with the other bills I have mentioned, were placed in the hands of brokers to sell in the open market in the ordinary course of business. When I sold these bills I had no suspicion whatever that Mr. C. Shaw would be unable to meet them. I had, in the months of May and July, remitted him Tls. 31,000—Tls. 23,000 in May and Tls. 8,000 in July. With regard to Tee San's account and Mr. Cromie's account they appear in our books at present as balanced by the drafts, and until I receive the account sales it is impossible to say whether they are debtors or creditors, or to what extent in either case.

Re-examined by Mr. MYBURGH—The proceeds of the other bills I sold I do not remember whether they were remitted by wire or not, as in this case, but I think it is very probable they were. I had authority to draw on Mr. Charles Shaw.

Mr. MYBURGH—Then what necessity was there for telegraphing for his credit?

BANKRUPT—I wanted his authority confirmed. I thought perhaps it might be said his authority referred only to documentary bills, and I wanted his authority for clean bills too, to show the banks in case they asked for it. I have wired once or twice to him in the same way before.

By the TRUSTEE.—The Tls. 31,000 I remitted in May and July was a portion of the purchase money of property in Shanghai and Hankow bought by me from Mr. C. Shaw. This money was remitted by Mr. Bland, who held a Power of Attorney from Mr. Shaw to receive it. I made a report of the value of the property in Shanghai and Hankow for Mr. Shaw. In that report I valued the property in Shanghai at Tls. 33,000 and that at Hankow for Tls. 9,000, making Tls. 42,000 in all. I have made no further remittance on account of the purchase money beyond the Tls. 31,000.

Mr. ROBINSON asked permission to ask the bankrupt a question on behalf of Mr. Shaw, who was not present and whose interest, he thought, ought to be protected.

His HONOUR asked whether Mr. Robinson appeared to protect the interests of Mr. Shaw.

Mr. ROBINSON, in reply, said he conceived it to be the bankrupt's duty to protect Mr. Shaw, the bankrupt being his partner in business. He would put the question and then his Honour could reject it, if it was not admissible.

Mr. ROBINSON then put the question to the bankrupt. When you bought the Shanghai and Hankow property from Mr. Shaw did not Mr. Shaw stipulate that you should give him a certain mortgage for the balance of the purchase money?

His HONOUR said that was a question that could not be put in any case.

Mr. ROBINSON explained that the trustee had interfered in the examination, and it was very possible he would contest the ownership of this property; therefore, it was desirable that the statements in regard to it should be completed as far as possible.

His HONOUR was of the opinion that they had nothing to do with affording protection to Mr. Shaw. If the matter had arisen distinctly out of the previous examination, he would have allowed the question to be put and answered. He did not think it arose out of the previous examination and therefore it could not be allowed.

Mr. ROBINSON said he only wanted his HONOUR'S ruling on the point that he was not allowed to ask the question.

His HONOUR then inquired whether there was any other creditor present who wished to examine the bankrupt.

Mr. ROBINSON said that as there were no other creditors present in addition to the creditors who had already examined the bankrupt, he begged to move that the bankrupt do pass his public examination.

His HONOUR—Does the Trustee object to the bankrupt passing his public examination?

The TRUSTEE—I have received no instructions from the Committee of Inspection, or from the creditors, as to the bankrupt being allowed to pass.

His HONOUR—On your clients' behalf, Mr. Myburgh, do you object?

Mr. MYBURGH—No, I cannot see how I can.

The TRUSTEE—I don't know what the effect of Mr. Robinson's motion would be at all.

His HONOUR—Have you no legal adviser.

The TRUSTEE—No, I have no adviser at all.

Mr. ROBINSON—I do not understand the Trustee raises any objection to the bankrupt passing.

Mr. MYBURGH—The Trustee, a few minutes ago, was apparently not aware that he could ask the bankrupt questions at any time he liked.

His HONOUR—Then do I understand the Trustee does not object to the bankrupt passing his public examination?

The TRUSTEE—No, I do not object.

His HONOUR—Then there will be a decree that the bankrupt do pass his public examination.

IN THE U.S. COURT FOR THE CONSULAR DISTRICT OF SHANGHAI.

Shanghai, 11th August.

Before D. H. BAILEY, Esq., *Consul-General, sitting as Judge.*

In re Estate of EDWIN MAURICE SMITH.

Mr. R. E. WAINEWRIGHT appeared for the Petitioner.

Mr. J. J. HENDERSON and Mr. W. V. DRUMMOND appeared for the estate, heirs, and beneficiaries.

This case was argued on the 19th and 20th May; and to-day the Court delivered the following

Judgment:—

The COURT said—This is an application by John Petrie Bisset, a British subject, residing in Great Britain, for probate of a will of Edwin Maurice Smith, deceased, a citizen of the United States, late of Shanghai, and that letters testamentary may be issued thereon to the said John Petrie Bisset.

The petition avers, in addition to the facts above stated, that the said Smith made and duly executed his last will and testament bearing date 1st October, 1870, and thereof appointed Thomas Hanbury and the petitioner the executors and trustees, and that while making the said last will and testament, the said Smith was temporarily residing at the Charing Cross Hotel, in the county of Middlesex, in England; that said Smith died in Shanghai on the 19th day of November, 1878; that the said Thomas Hanbury, by an instrument, in

writing, duly executed, renounces his right and authority to act as an executor of said will; that on the 8th day of March, 1879, the said will was duly proved by the petitioner in H.B.M. High Court of Justice in England, the value of the personal estate of the deceased in England being sworn to be under the sum of £3,000 sterling; that the said E. M. Smith died, seized and possessed of real estate situate in Shanghai, valued at 625,000 Shanghai Taels, and personal estate in Shanghai valued at 31,000 Shanghai Taels; that none of the heirs of said Smith, and none of the devisees or legatees under his said will are resident in Shanghai or elsewhere within the jurisdiction of this Court.

The Attorney who represents the estate, and the heirs and beneficiaries of the deceased in the United States, objects to the issuance of letters testamentary to the petitioner upon the grounds:—

1st.—That upon the facts disclosed by the petition of said Bisset he is not a competent party to obtain probate and letters testamentary as prayed, he being an alien and residing out of the jurisdiction of this Court.

2nd.—That this Court is the only Court of original jurisdiction for granting probate of the will in question.

3rd.—That the petitioner is named in the will set out as trustee and executor, and as appears by the petition is legally incompetent to act as such.

There are two questions of importance to be considered.

1st.—Whether upon proof of probate of the will in H.B.M. High Court of Justice in England, and letters testamentary thereon issued by that Court to the petitioner, this Court will *ex comitate* grant probate by issuing letters testamentary to the petitioner as executor and trustee.

2nd.—Whether the petitioner, being a British subject and not within the jurisdiction of this Court, is legally incapable of exercising the office of executor and trustee under the will of the deceased with respect to the estate in Shanghai.

The Court, in ascertaining the law by which it is bound, must look to the Acts of Congress creating the Court and the system of jurisprudence thereby established for its guidance, and not to the local laws of the several States. In general terms the Statutes of a particular State operate only within the territorial limits of that State, and therefore the Statutes of California and other States, cited in the argument, even if they go as far as is claimed, which I think altogether doubtful, are not in force here. Section 4,086, Revised Statutes of the United States, provides the rule of law for this Court clearly and unmistakeably. This, then, is a case coming within the common law, equity and probate jurisdiction of the Court.

Looking to these three branches of jurisprudence, the law seems to be well settled by the authorities both in America and England:—"That the domicile of the deceased is the place of *primary* and exclusive probate jurisdiction." 12 American Reports, Leonard *v.* Putnam, p. 106; 5 English Law Reports, Miller *v.* James, *et al*, p. 502; Williams on Executors, vol. 1 (7th ed.) p.p. 362, 363, 365, 366. "When the Court of Probate is satisfied that the testator died *domiciled in a foreign country*, and that his will containing a general appointment of executors has been duly authenticated by those executors *in the proper Court in the foreign country*, it is the duty of the Probate Court in this country to clothe the foreign executors with ancillary letters of probate to enable them to get possession of that part of the personal estate which was locally situate in England." Williams on Executors, vol. 1, p. 370.

"In general the English Courts of Equity will restrain the representatives and legatees of an estate, where the testator died domiciled in England, from taking proceedings in a foreign Court to administer the personality, and they will not be allowed to take proceedings abroad, in regard to the administration of realty there located, if by so doing the administration of the personality, in the domestic forum, will be embarrassed"—Story's Equity Jurisprudence, sec. 589b; Hope *v.* Carnegie, 12 Jur., N. S., 284.

In the argument, Counsel for the Petitioner raised a doubt as to the place of domicil of the deceased—and this is material to the case. The question of domicil must determine the place of original and exclusive probate jurisdiction. There has been much learning exhausted upon the subject of domicil, and the possibility of the existence of two domicils. But it is not difficult to decide in this case where the deceased had his domicil. The language of the will is:—"I, Edwin Maurice Smith, of Shanghai, in the Empire of China, but now temporarily residing at the Charing Cross Hotel, in the county of Middlesex, England, hereby declare, &c., &c., &c. The averments in the petition are to the same effect, and that the said Smith was a citizen of the United States of America.

Many definitions of domicil have been given, but, says Phillimore (International Law) vol. IV, page 43:—"Perhaps, however, the American Judges have been most successful in their attempts, and from a combination of their *dicta* upon different occasions, we may arrive at a tolerably accurate definition in designating it 'a residence at a particular place, accompanied with positive or presumptive proof of an intention to remain there for an unlimited time.' Guier *v.* Daniel, 1 Binney's Reports, 349, note; Ebbers *v.* Kraft, 16 Johnson's Reports, p. 128; the Francis, 8 Cranch; Johnson *v.* Sundry Articles of Merchandise, Peter's Condensed Reports of cases in the Supreme Court of the United States, vol. III., p. 171. According to Vattel, "Domicile is an habitation fixed in some place with an intention of remaining there always," Vattel Droit des Gens, i.i.c. xix.s. 218 du Domicile. There is not an iota of domicil in such a residence as that of the deceased at the Charing Cross Hotel. Admit the possibility of two domicils in this case, the domicil of choice and the domicil of origin, for the original domicil may be preserved by the effect of a treaty (Phillimore, vol. IX, p. 196), still the domicil of the deceased was at the time of his death within the jurisdictional limits of this Court, where his realty is situate, the primary and exclusive place for probate of his will. Changing the phraseology of the petition, but not the substance, it says:—Edwin Maurice Smith, of Shanghai, a citizen of the United States, temporarily residing at the Charing Cross Hotel, &c., &c., &c.,—and who died at Shanghai November 19th, 1878. By what accepted rule of interpretation can this be held to be a domicil other than that within the primary and exclusive jurisdiction of this Court. The deceased not being domiciled in England, the *rei sitæ* and the commorancy both being within the jurisdiction of this Court, upon what principle or precedent is it to be held that the probate of the will and granting letters testamentary there, binds this Court, in law or comity, to appoint an executor and trustee whereby it ousts it own original and exclusive jurisdiction.

A potent reason for the rule that the place of domicil is the place of primary and exclusive probate jurisdiction, is that there the deceased had fixed the seat of his fortune, the centre of his negotiations, and the accumulations of his property—it was the place of his choice and predilection, where all his affairs centre and determine.

The remaining question as to whether the petitioner, being a British subject not within the jurisdiction of this Court, is legally incapable of performing the office of executor and trustee, is perhaps not so simple. He is appointed by the testator in the deed of trust as one of the executors and trustees, and it is a well settled rule that the Court should have regard to the wishes of the person by whom the trust has been created, if expressed in the instrument creating the trust or clearly to be collected from it. The appointment of a trustee thus made will not be set aside, except for weighty reasons. The testator is to be permitted to dispose of his property to such persons, through such persons, and for such purposes as to him shall seem meet and proper, provided this disposition is not made in conflict with law. The objection is made that the petitioner, being an alien not domiciled within the jurisdiction of the Court, cannot lawfully execute the trust. The general jurisdiction over trust estates belongs to Courts of Equity, and they will not allow the management of such estates to pass beyond their control, for it is the duty of such Courts to enforce the execution of trusts. In the case of a trust estate within the jurisdiction of the Court, the trustee or trustees thereof being without its jurisdiction, it is clear that the Court would have little or no power in its supervision over the management of the estate. The trustee would not be within reach of process of the Court, nor amenable to orders or decrees. The confusion and the juries which might ensue to an estate and its interests, so situated, have been guard against by what now seems to be the settl doctrine in America and England, as defi by Lewin's Law of Trusts, p. 27. "In gene terms, a person to be a trustee should b person capable of taking and holding the le estate, and possessed of natural capacity a legal ability to execute the trust, *and domici within the jurisdiction of the Court.*"

"If a trust is cast upon a person incapa of taking and executing it, Courts of Equi will execute the trust by decree, or they w appoint some person capable of performi the requirements of the trust." Perry Trusts, vol 1, par. 39.

"If property has been bequeathed in tru and no trustee, or a trustee *disabled fr taking*, or one who is dead, or refuses to tak is appointed, the Court will decree the exec tion of the trust by the personal rep sentatives if it is personal property, a by the heirs and devisees if it is r estate." Perry on Trusts, vol 1, par. 3 Piatt *v.* Vattier, 9 Pet. 405; Gibbs *v.* Mar 2 Met. 243; Withers *v.* Yeaden, 1 Ric Eq, p. 325; Cushney *v.* Henny, 4 Paige, 34 De Baranti *v.* Gott, 6 Barb. 492; Malin Malin, 1 Wend. 625; McIntire *v.* Zanesvill C. and M. Co., 9 Ham. 203; Kerr *v.* Du 14, Penn. St. 114.

"If the alien be domiciled abroad it is objection to his fitness for the office of truste as he is not amenable to the jurisdiction the Court." Lewin's Law of Trusts, p. 3 Spence's Equitable Jurisprudence, p. 32; Per on Trusts, vol. 1, pars. 55, 275, 276, 818. *In* Harrison's Trusts, 22 L.J. (Ch.) 69. *In* Guibert, 16 Jur., 852.

The petitioner is a British subject resid and domiciled in Great Britain, but were domiciled in Shanghai, it would not cha his *status* in this case, for the jurisdiction he being only personal, not territorial, he wou not be amenable to the orders of the Court.

In the argument, two precedents in th Court are cited, but there is nothing to sh that the questions presented here arose were presented in those cases,—cases whi doubtless were heard on *ex parte* applicatio and it rarely happens that *ex parte* proceedi settle important principles.

The current of authority in the Courts the United States seems to be clear and stro against non-resident aliens acting as truste especially concerning chattels real and re estate.

The reasons which apply against the pe tioner, as trustee, apply with equal for against his acting as executor.

"If the executor named in the will, or t next of kin, be out of the kingdom, t Ecclesiastical Courts have, as they alwa have had, the power, before probate obtaine or letters of administration issued, of granti to another administration *durante absenti* Lord Holt said it was reasonable there shou be such an administration, and that this a ministration stood upon the same reason as a administration *durante minore ætate* of executor, viz., that there should be a pers to manage the estate of the testator till th person appointed by him is able. William on Executors, vol. 1., p. 502.

In this case the absence and inability of th petitioner is necessarily perpetual, since he ca never be within the jurisdiction of the Cour which has sole jurisdiction of the estate. B the 55th Rule of the Regulations governi the United States Consular Courts in China the law of the Ecclesiastical Courts is made part of the law of this Court.

The argument that another "competen and powerful" Court could administer the la is not an answer to these principles settle and enunciated by the Courts of Englan and America. Certainly that Court woul administer the law clearly, justly, and wit an even hand, according to its jurisdic system; but this is not a question of comit between Courts; it is a question of jurisdic tion, and it is a digression of argument to sa that another Court would administer the la properly. The *original* and *exclusive* jurisdic tion belongs to the Court of the United States as provided for by Treaty and the Laws o Congress,—it is in respect of the property of citizen of the United States, in which other citizens of the United States have a very larg

interest, and concerning whom the rules of procedure, the interpretation of wills, the policy of American Law as to trust estates, and the Court of Appellate Jurisdiction may be of the first importance, as contra-distinguished from the different rules and course of trial, original and final, in the Court of another nation.

The jurisdiction of a Court once properly obtained in a particular case, as in this case, will not be relinquished for mere convenience, especially if that jurisdiction is to be ousted in contravention of law.

"When a State by its own code speaks positively on a subject, it must be obeyed by all persons who are within the reach of its sovereignty." Story's Conflict of Laws, paragraph 23.

Interpreting the question of the jurisdiction of United States Consular Courts in China, the then Attorney General of the United States, the Hon. Caleb Cushing, says:—"This point is determined very explicitly in our Treaty with China, which, in the most unequivocal terms, places all the rights of Americans in China, whether as to person or property, under the *sole* jurisdiction, civil and criminal, of the authorities of the United States, and Congress has made provision to meet the exigencies of the treaty in this respect." Opinions of Attorneys General, Vol. VII, p. 28. This opinion is quoted with approval in Wheaton (International Law) 6th ed., p. 312. The Court cannot relinquish its prerogatives, nor recede from its obligation under the Treaty.

"No nation being under any obligation to yield up its own laws, in regard to its own subjects, to the laws of other nations, it will not suffer its own subjects to evade the operation of its own fundamental policy or laws, or to commit fraud in violation of them, by any acts or contracts made with that design in a foreign country, and it will judge for itself how far it will adopt, and how far it will reject, any such acts or contracts." Story's Conflict of Laws, par. 106.

No nation is under obligation to do anything prejudicial to its own authority, or to the rights of its citizens.—Story's Conflict of Laws, par. 512.

It is the duty as well as the right of every Government and its Courts to protect its own citizens in the enjoyment of their property within its jurisdiction, observing the equal rights of others. 3rd Pick. R. 128.

"Even the property of individuals is, in the aggregate, to be considered the property of the nation, with respect to other States. It in some sort really belongs to her from the right she has over the property of her citizens, because it constitutes a part of the sum total of her riches, and augments her power. She is interested in that property by her obligation to protect all her members." Vattel, p. 164.

These principles, which are expedient and politic, and which flow from and depend upon the reciprocal relations and duties of the State and its citizens, apply with peculiar force in this case.

A nation cannot be expected to surrender its authority over the persons and property of its citizens, when the person and property are within the limits of its territory, or under the jurisdiction of its Courts, and particularly if that jurisdiction in a foreign country is provided for by treaty to be sole and exclusive. To transfer that jurisdiction to another foreign forum would be a violation of a compact by treaty, and an abandonment by the State of its obligation to protect the persons and property of all its members by its own laws, in the mode of their operation, in whatever way they may be peculiar to its own polity, and in accord with the system of its sovereignty, for every nation in the exercise of its sovereign will establishes systems in unison with the genius of its people.

"As it is an incident to the sovereign power of every independent State to have authority over all persons residing or being within its borders, so it is an incident to the same power to have authority over all things or property of every description within its borders." Phillimore ("International Law") Vol. IV, p. 407.

In this case the ex-territorial borders of the United States extend by treaty so far as to give the sole and exclusive jurisdiction over the property of the deceased to this Court, and this is not only a prerogative of the Court, but it is obligatory and mandatory on the Court in so far as the protection of every American interest is involved.

Beside the American beneficiaries there is a Chinese subject named in the will as a *cestui que trust*. In case of litigation between the latter and the former, this is the only foreign forum for the arbitrament of their rights and the enforcement of a decree against the estate.

In a controversy between the American beneficiaries, or the heirs at law, concerning their rights in the estate, it is clear that the American forum is the only one in which these rights can be adjudged. Suppose they are so adjudged, how can the decree of the Court be enforced against a trustee holding the legal estate, and who is not only not domiciled within the jurisdiction of the Court, but who, even were he in the Court room at this moment, or at any time, as such trustee and executor, or otherwise, would still be without the jurisdiction of the Court.

Thus the granting of letters testamentary to the petitioner would be a total and final surrender of all jurisdiction or authority over the estate of the deceased by the authorities of the United States, in derogation of the treaty with China by which the tribunal for litigation between the citizens and subjects of the two countries is agreed upon and fixed; and, contrary to guarantees of law and treaty, changing the forum of first and last resort in which citizens of the United States are to have their rights of property heard and adjudicated.

I conceive that the management and all the substantial interests of the estate, and of all those who are concerned in it, can only be controlled and determined within the jurisdiction and by the authority of the Courts of the United States.

I see no objection to the probate of the will upon application duly made, but I must refuse an order granting letters testamentary to the petitioner.

"It is a rule that admits of no exception, that equity never wants a trustee, or, in other words, that if a trust is once properly created, the incompetency, disability, death, or non-appointment of a trustee shall not defeat it." Perry on Trusts, vol. 1, p. 38. Therefore, at an early day it will become necessary for the Court to appoint two trustees to carry out the will of the testator.

The costs of the application will be taxed against the petitioner.

Mr. WAINEWRIGHT—With regard to the question of costs, I should like to say a few words. I think, as in this case, where a petitioner is appointed trustee by the testator, it is incumbent on him to a certain extent to contest his rights; and therefore I think it is a fair case for the costs to come out of the estate. It was the petitioner's duty to the testator to contest this question of law, which, to say the least, is a novel one, and one which I simply say it was his duty to contest; and to throw upon him personally the hardship of paying the costs of this application seems to me rather cruel.

The COURT—Certainly that would be the ordinary course according to the rules of procedure, but there is much weight in what you say.

Mr. WAINEWRIGHT—Yes, unsuccessful parties *prima facie* pay the costs. But in this case I say the trustee appointed by the testator had a right to come to this Court to see if he would be justified to clothe himself with the trust the testator had given him. Under such circumstances I think it is only fair that the costs should come out of the estate.

The COURT—There is no doubt great force in what you say, and I will take the matter into consideration.

Mr. HENDERSON—I am not prepared to assent to that proposition. I think with legal objections of the nature that have been disclosed in the argument on this application, it was the duty of the parties to take legal advice, and they should have been governed by that advice. If it was bad advice they should certainly pay the penalty. But all I have to say at present is that I do not assent to the application.

Mr. WAINEWRIGHT—For the enlightenment of my learned friend Mr. Henderson, I may say we took the advice of two or three eminent American lawyers, and the petitioner was told that the question was one that he had a very good chance to succeed in.

Mr. HENDERSON—There are some very bad lawyers in America.

Mr. WAINEWRIGHT—It appears so.

The COURT—I think there is much in the point raised by Mr. Wainewright in reference to costs, and I think it will be better for the matter to stand over.

Mr. DRUMMOND—The objection is one very properly taken by Mr. Henderson, who, it must be remembered, acts in the interests of absent persons who are not here to act for themselves.

The COURT—I will not tax the costs now. I will leave it an open question. It will be left in abeyance for the present.

Mr. DRUMMOND—There is one paragraph, or just a few words at the end of the judgment, which necessitates my asking the Court a question upon, and making one or two observations in relation thereto. Just at the end of the judgment are the words that the Court will proceed to appoint two new trustees. In referring briefly to the present position of the case, I would remind your Honour of the following facts. At the time the Court first took cognizance of this particular estate neither of the two trustees named in the will were present in Shanghai, and none of the heirs and beneficiaries under the will were within the jurisdiction of this Court, or represented within the jurisdiction of this Court. That being so this Court very necessarily and very properly, and as authorised by the laws of the United States, took charge of the estate and appointed temporary administrators, Messrs Knight and Lester, and the property remains in their hands at the present time. An application has been made on behalf of one of the trustees named in the will, the other trustee having renounced altogether, and that application has just been dealt with by your Honour deciding by the judgment you have just delivered that the only remaining trustee under the will is ineligible to act in that capacity—that, in fact, he is incapable to act as trustee or executor under the will. Your Honour, I believe, is aware that a Power of Attorney has been filed on the records of this Court, which said Power of Attorney has been executed by all the heirs and beneficiaries under the will who are citizens of the United States and residing in that country. All the heirs and beneficiaries residing in the United States have appointed Mr. F. B. Forbes and Mr. F. D. Hitch, of the well-known firm of Messrs. Russell and Co., as their representatives in all matters connected with this estate and their interests under the will. That being so the position of affairs is now entirely changed, and it appears to me that all the beneficiaries being now, in fact, present in Shanghai by their representatives, that they are the proper persons, and the only persons, to take steps to obtain probate of the will, and to apply for the Court to arrange for the administration of the property itself. That being so I would ask whether the Court means, by those last words at the end of the judgment, whether it considers itself bound to take the initiative in any future steps in regard to the estate, or whether, in the altered state of affairs, the beneficiaries, by their representatives, should take the initiative.

The COURT—I think the situation, as it appears to me, requires the initiative to be taken by the Attorney representing the beneficiaries. In the absence of their representative, I think it would be the duty of the Court to appoint trustees, but as they are now represented it is for them, I think, to take the initiative.

Mr. DRUMMOND said he only desired to know whether the Court would take the initiative in regard to further steps being taken to administer the estate, or whether it would be left to the persons interested under the will to do so, and the Court had said it was not for it to take the initiative.

The COURT—There is no objection to probate being granted to proper persons.

Mr. DRUMMOND said that was the only question he wished to ask, as he represented those who held the Power of Attorney on behalf of the heirs and beneficiaries who were citizens of the United States, residing in America.

The COURT then adjourned.

FRENCH CONSULAR COURT.

Shanghai, 9th August.

Before G. LEMAIRE, Esq., *Acting Consul-General*, and Messrs. R. DE MALHERBE and J. ROUSTAN, *Assessors*.

Messrs. MELCHERS & Co. *v.* MESSAGERIES MARITIMES Co.

This case has been twice previously before the Court, namely on the 17th and 24th of July. It was an action to recover the sum of Taels 3,432, the value of a shipment of 995 cases of steel by the M.M. Co.'s steamer *Yangtsé*, consigned to the plaintiffs, who are merchants and commission agents on the French Bund. The steel was sent from Germany to London, thence to Marseilles, where it was shipped on board the *Yangtsé*, and on arriving at Shanghai 408 cases were damaged, while the remainder were in good condition. The goods had been sold by the plaintiffs to Chinese, but owing to the damaged condition of the 408 cases, they were unsaleable in the Chinese market, and, in consequence, plaintiffs refused to take delivery and sued the defendants for the value of the whole 995 cases, alleging that the steamer was liable for the damage done.

Defendants, who were represented by their agent, Mr. Du Pouey, denied the liability of the steamer, and alleged that the damage resulted from the manner in which the steel was packed. In support of this view Messrs. Wheelock, Bluntschli, and Poignand were examined, who gave it as their opinion that the packing of the cases was insufficient.

On behalf of the plaintiffs, Messrs. H. Jürgens and E. W. Rice were examined, and expressed their opinion that the packing was sufficient.

The goods were surveyed by order of the Consul-General by Captain Roberts and Messrs. Legras and Percebois, who made a conjoint report. There was, however, a difference of opinion between them, two being of opinion that the damage was the result of bad packing, while the other was of opinion that the packing was sufficient and that the damage had been caused by the steamer.

The foregoing is an outline of the proceedings on the 17th of July, and when the Court met on the 24th, it ordered another survey to be made of the goods owing to the conflicting nature of the evidence as to the packing and the solidity of the cases containing the steel, and appointed Messrs. James Simpson, P. V. Grant and P. Maclean as the surveyors. They were instructed to answer certain questions submitted to them by the Court.

When the Court opened to-day, their report was read by Mr. J. de Bielke, who acted as Clerk of the Court.

The three surveyors reported that they had made the survey of the 995 cases of steel stored at the Hongkew Wharf, in pursuance of the order of the Court, and they had also surveyed other shipments of steel imported in sundry steamers and stored at different places. The questions submitted to them by the Court and their answers thereto were as follows:—

1st *Question*—As to the nature and quality of the material employed in the manufacture of the cases containing the steel?

Answer—Soft wood of the average thickness of ⅛ part of an inch, English hoop iron bands ¾ of an inch in width, and No. 25 BW gauge at both ends of cases.

2nd *Question*—As to the strength or suitability of the cases, taking into consideration the nature of the goods they contained and the length of the voyage?

Answer—The packing is weak, and in our opinion, considering the nature of the voyage, extraordinary care would have to be exercised in conveying the cargo in a sound condition to its destination.

3rd *Question*—Whether the packing is superior, equal or inferior, to the packing generally used for such merchandise?

Answer—The packing is equal to some of the parcels we surveyed and inferior to others.

4th *Question*—Whether the damage was caused by external shocks to the cases, or was the result of negligence in loading, stowing or discharging; or whether it resulted from internal causes such as the movement of the steel in the cases arising from loose packing?

Answer—We consider the damage has arisen partly from the intrinsic weakness of the cases and partly from reckless treatment by the steamers' employés, in the loading, stowing, or discharging the cargo.

5th *and last Question*—If the damage resulted from both of these causes, external and internal shocks, what is the proportion of damage to be attributed to each?

The answer to this question, the surveyors said, was based upon the surveys they had made of the other parcels of steel imported from Europe, stored in various places in Shanghai, and belonging to different consignees. They had examined five lots of steel altogether, each of which was particularised in their report. In three lots, including the one the subject of the present suit, the packing was similar, and they had been damaged in the following proportions, 44 per cent. (Messrs. Melchers & Co.), 33 per cent., and 23 per cent. The other two lots were differently packed, one showing 7.78 per cent. of damage, while the other was not damaged at all. If the proper quantity of steel was delivered to the consignee, they reported that damage to the cases had hitherto been accepted as inevitable. Considering, however, that Messrs. Melchers and Co.'s consignment of 995 cases had suffered 13 per cent. more damage than the two other lots of steel which were similarly packed and had also been imported from Europe, they attributed the extra damage to the carelessness of the employés of the steamer.

The COURT, in giving its decision, reviewed the evidence that had been given, pointing out that in the first report of the survey ordered by the Court there was a preponderance of opinion that the damage was the result of bad packing. Then, this opinion was supported by the declarations of Messrs. Wheelock, Bluntschli and Poignand, whereas on the other hand they had the evidence of Messrs. Rice, Jürgens and Nicholson that the packing was not bad, and that in their opinion the steamer was responsible for the damage. The report of Messrs. Grant, Maclean and Simpson confirmed the opinion of the majority of the other surveyors and described the packing as weak, and that extraordinary care would have to be exercised in conveying the cargo in sound condition to its destination. Further, these surveyors had surveyed two other lots of steel brought by other steamers and stored in different godowns, but each having the same description of packing as the 995 cases, the subject of this suit, and their report showed that this mode of packing was insufficient, as in these two lots there was a proportion of damage from 23 to 33 per cent., which could not be considered normal in face of the result of the surveys of the other two shipments of different packing, one of which had only 7 per cent. of damage, and in the other there was no proportion of damage at all. The Court also pointed out that according to Article 103 of the Code of Commerce the carriers of goods were only responsible for damage other than that arising from the intrinsic vice or defects of the merchandise itself, and that after hearing the report of the last surveyors, and the other evidence that had been brought forward, the Court was of opinion that the plaintiffs were not entitled to recover. Therefore they would be non-suited, and be ordered to pay the costs of the Court and the expenses of the two surveys.

Miscellaneous Intelligence.

PASSENGERS.

DEPARTED.

Per str. *Europe*, for Foochow—Mr. Dowdall and Capt. Popp.

Per str. *Sin Nanzing*, for Chefoo—Mrs. Towell, 2 children and 2 servants.

Per str. *Fungshun*, for Tientsin—Mr. E. Belbin.

Per str. *Kiangpiau*, for Ningpo—Mr. T. W. Laidler, child and servant.

Per str. *Genkai Maru*, for Nagasaki—Mrs. Anderson, Mr. G. Morford. For Hiogo—Mrs. Wemer and Mr. J. Maitland. For Yokohama—Messrs. E. Broc, G. Dormeuil and M. Buyand.

Per str. *Kiangpiau*, for Ningpo—Chief Justice French and Miss French.

Per str. *Hankwang*, for Chefoo—Mrs. Cros and child, Mr. J. Mackenzie, Rev. and Mr. C. G. Moore. For Tientsin—Messrs. Tsan Tse-Moh, Edwards, G. A. Lindsay and Tsa S. Laisun.

Per str. *Kiangyung*, for Hankow—Messrs. A. Alsing and Isaacson.

Per str. *Haeting*, for Chefoo—Mrs. C. Grant, Mr. Burmeister and Dr. Platt. For Tientsin—Mr. Andrew.

Per str. *Kiangfoo*, for Hankow—Poli and servant.

ARRIVED.

Per str. *Sin Nanzing*, from Chefoo—The Very Rev. Dean Butcher, Messrs. C. Stuart and Grahai.

Per str. *Kiangyung*, from Chinkiang—Mr. Colby.

Per barque *Anglo-Norman*, from New York—Mrs. Davidson and Mr. Griffiths.

Per str. *Amoy*, from Hongkong—Mr. Sieg son.

Per str. *Shanghai*, from Hankow and Port—Messrs. Hargreaves, Grimani, Schmidt, and a French missionary.

Per str. *Glaucus*, from Liverpool—Mr. Bellknap. From Hongkong—Mr. Holmes.

Per str. *Hankwang*, from Tientsin—Mr. Hamilton. From Chefoo—Mr. Spring.

Per str. *Hiroshima Maru*, from Japan—Messrs. Mason S. Cooper, Geo. Schlesenger, Ishinim, and Markevitch.

Per str. *Chinkiang*, from Hongkong—Mrs. Marshall and family and Miss Vandyke.

Per str. *El Dorado*, from Tientsin and Chefoo—Messrs. A. Davenport (H.M. Consul at Shanghai), H. Burman, W. Harding, H. Gaandyllaume, C. Sinclair, and Captain Simons.

Per str. *Kiangfoo*, from Hankow—Mr. E. A. Deacon.

Per str. *Haeshin*, from Tientsin and Chefoo—Mr. Chalmers.

Per str. *Taku*, from Tientsin and Chefoo—Mr. Wilson.

Per str. *Wuhu*, from Chinkiang—Dr. Platt, Dr. and Mr. White.

LEAVING.

Per M.M. str. *Anadyr*, for Marseilles—Messrs. E. Lehmeyer and J. Allen.

METEOROLOGICAL REPORT.

Day of Month.	Barometer. 9 A.M.	Barometer. Attached Therm.	Thermometer in shade. Max.	Thermometer in shade. Min.	Hygrometer at 9.00 A.M. Dry bulb.	Hygrometer at 9.00 A.M. Wet bulb.	Wind. Force.	Wind. Direction	Rain-fall in inches previous 24 hours.
Aug	° ′	°	°	°	°	°			
6	29.75	83.0	87.0	79.0	84.7	79.0	1	South	..
7	29.80	81.5	94.0	80.0	85.0	78.0	1	to 2] s.w.	..
8	29.84	84.0	88.8	80.0	84.7	78.2	3	West	..
9	29.78	83.7	91.0	79.0	82.0	76 5	4	w.n.w.	..
10	29.74	85.0	93.8	80.0	87.6	78.8	2	w.s.w.	0.20
11	29.74	86.4	97.0	82.0	86.2	81.1	3	w.s.w.	..
12	29.79	88.0	98.0	83.0	87.3	80.7	2	w.s.w.	..

EXPLANATION.

Initials:—b. blue sky; c. clouds; f. fog; h. hail; l. lightning; m. misty (hazy); o. overcast (dull); r. rain; s. snow; t. thunder; z. calm. Force from 1 to 12, estimated.

PRICE OF THE *NORTH-CHINA HERALD and S. C. & C. GAZETTE*.—Per Annum, Taels 12; Six Months, Taels 6.50. Three Months, 3.50—*all payable in advance*. Credit price, Tls. 13.15 per Annum; Subscriptions will be considered as renewed unless notice to the contrary be given before the expiry of the current term.

TERMS FOR ADVERTISING.—Ten Lines (space *Bourgeois*) and under, *One Tael*; each additional line *One Mace*. One-half of these charges for repetitions. Contracts may be made for 3 months, or longer, *payable in advance*.

SUBSCRIPTIONS received, and Single Copies sold, by GEORGE STREET,

30, Cornhill,

LONDON *(E.C.)*

☞ *Advertisements will be repeated unless countermanded.*

Mr. Wood

No. 19. August 13 1879 United States Consulate General at Shanghai,

Mr. Bailey Consul General. to the State Department,

Subject:— Carrying trade of China

DEPARTMENT OF STATE SEP 29 1879 RECEIVED

ABSTRACT OF CONTENTS.

Submits tables of carrying trade of China from 1873 to 1878 and some remarks thereon.

Inclosures

No 1. Tonnage & No entries of all nations at open ports of China 1873 to 1878 inclusive

No 2. Table showing Comparative Tonnage of sailing and Steam vessels in Oriental trade from 1871 to 1878 inclusive

No. 19.

United States Consulate General,

Shanghai, August 13th 1879

Hon. Charles Payson

Third Assistant Secretary of State,

Washington, D.C.

Sir,

I have the honor to transmit herewith some tables exhibiting the carrying trade, foreign and Coastwise, of China, for a period of years, with some remarks thereon.

Table No. 1. is an exhibit of the number of entries, and the gross tonnage of all Nations at the Open ports of China for the years from 1873 to 1878 inclusive.

The decrease of American tonnage from 3,483,203 tons to 341,942 tons is the most notable feature of the changes of these years. This decrease

is

is in part explained by the sale of the Steam Coast and River fleet of Messrs Russell & Co and of the Shanghai branch of the Pacific Mail Company. One half of this decrease of the tonnage under our flag resulted from these two sales, the other half of the decrease is ascribable to other causes to which I shall allude further on.

It will be seen that Great Britain has more than doubled her tonnage, and China has increased from 207,118 tons to 4,377,347 tons. This increase in Chinese shipping is due in most part to the transfer of Russell & Co's fleet from the American to the Chinese flag. The increase in the Japanese tonnage is accounted for in the transfer of the Pacific Mail

Steamers

Steamers from the American to the Japanese flag. It is to be remarked in this connection, that it is to be regretted that such a large part of our carrying trade in the East should be subjected to the exigencies of two Companies as in this case.

Table No 2. shows that the increased tonnage in the eastern Waters has been from increase of Steam Vessels. This tonnage has more than doubled in the years from 1871 to 1878. During the same time the tonnage under sail has actually decreased.

While it is true that Steam is driving sail from the face of water the world round, there can be no doubt that the great relative changes shown in table No 2 are the results in

in great part of the opening of the Suez Canal. That route is impracticable to sailing ships owing to the dead calms to be met with in the red sea, whereby Steam has an advantage over sail from Shanghai to New York of at least 6000 Miles. So great is this especial advantage of distance, added to that of time, that but for the fact that Steam will not carry our mineral oils, and therefore they must be moved by sail, there would not, in all probability be a single sailing ship from America in these waters. Nothing can be surer than that if we are to have any share in the carrying trade of the East it must be done by creating a Steam Marine.

This Oriental Carrying trade is of three kinds, requiring three entirely different classes of Vessels.

1.st there is the Ocean trade from the open ports through the Canal to America and from the same ports to America via San Francisco and Panama, loading from the United States with our manufactures, such as are suited for the China and Japan markets and returning with Tea Silk &c.

The Tea shipments from China and Japan to the United States for 1879 are likely to reach 25000 tons and of Silk, Strawbraid, Strawhats, raw-hides (Buffalo Cow & Goat), wool and Camels hair several thousand tons more, a homeward freight for a very

very respectable Steam fleet.

These Steam ships for these Ocean routes should be iron propellers, with high pressure, Compound engines, with the utmost economy of fuel Consumption, compatable with a fair rate of Speed. They should have a large freight Capacity, say 3000 tons, room for 10 to 12 Cabin passengers. They should run like the Holt line of England to all the Coast and River Ports wherever Cargo offers and they should not be held to perform schedule time.

With money ruling at such low rates of interest in our markets as at present, there can be little doubt that Capital invested in such a line of Steam ships would pay satisfactorily.

The two other kinds of carrying are Coast and River. Of the former, between the different Coast Ports there are a large number of Steam Vessels employed. The China Merchants Steam Navigation Company have at least 20 Steamers; the China Coast Steam Navigation Company have 16 or 18 Steamers. This Coast Trade is best done by Steamers of 1000 to 1200 tons, with large accommodation for Chinese passengers. They should be able to make 10 Knots per hour on 10 tons of Coal per day and should not draw more than 14 feet of water when loaded in order to readily pass the bars at the mouths of the Whampoo at Woosung and of the Peiho at Taku. The inland carrying trade

trade is mostly on the Yangtze River. The boats the C. M. & S. N. Co. despatch are 5 steamers per week to Hankow; the China Steam Navigation Company have a weekly line to that port. The China Coast Navigation Company are now organizing a purely freight line for the Yangtze River. Two of their Steamers have been built but on the docks at Shanghai and will carry 800 tons of freight and cost $80,000 dollars each. One of these Steamers there are various kinds. Formerly they used to have side wheel coasting steamers of the same style as our North River boats; they were of light draft and would carry from 1800 to 3600 tons. They were mostly

american

~~across the Atlantic and were and still~~
~~are in use but Steamers. Having~~
~~been built from 10 to 20 years ago~~
~~they are not so economical in regard~~
~~to fuel as later built boats. There~~
~~are also in use Tug Boat and Tow~~
~~Boats. The main traffic is~~ ~~on the Ohio~~
~~River by the Chesapeake & Ohio Canal~~
~~have brought out a new steel~~
~~Boat by the Pittsburg Coal Co~~
~~Co. Boat is larger than~~
~~any boat before built, carrying~~
~~4000 tons freight and 80 Horse~~
~~power and guaranteed to run 10~~
~~miles per hour on a level. Price~~
~~complete of Boat. Hoe Co Cost~~
~~$125,000. It is thought, how-~~
~~ever, that a boat carrying from~~
1200 to 2000 tons, drawing about
9 feet of water, can run 10 tons
of

of coal per day, making from 8 to 9 knots per hour, having large accommodation for Chinese passengers and costing from 75 to 100,000 dollars would be more profitable than either larger or smaller Steamers.

I will now recapitulate:

If we are to have any portion of the carrying trade of the Orient we must have a Steam merchant Marine. Three kinds of Steamers are required for this trade:

1st. Three thousand ton Ocean Steamers, Iron propellers, low fuel consumption and fair rate of speed.

2d. Coast Steamers of from 1000 to 1500 tons, Iron propellers, 12 to 14 feet draught,

Capable

capable of making from 8 to 10 knots per hour, running on 10 tons of Coal per day.

3° River Steamers of 1200 to 2000 tons, side wheel or propellers, light draft, at most, not more than 9 feet, fair rate of Speed and economical fuel Consumers.

It seems as though there was a wide field here for our Merchants and Ship owners. We have a large number of ship masters who know every foot of these routes, whose sailing ships have been beaten out of these Waters and driven to the wharves at home to rot and who are just the men to command a fleet of Steamers here. We have cheap money, cheap Iron and cheap manufactures.

Our merchant sailors have energy, skill and courage which with a fair field like this should be all that is required to win.

I have the honor to be

Sir

Your Obedient Servant

David Ker Bailey

Consul-General

Flag	1873		1874		1875	
	Vessels entered & cleared		Vessels entered & cleared		Vessels entered & cleared	
	No	Tons	No	Tons	No	Tons
American	5.001	3.483.203	4.279	3.184.360	3836	2.777.367
Austrian	- - -	- -	-	- -	11	2.228
Belgian	4	7.004	-	-	-	-
British	6.955	3.645.551	7.382	4.738.793	8.277	5.167.435
Brit. sailing ships	344	176.017	899	444.771	1.557	811.344
Brit. steamships	521	31.101	747	49.466	854	60.095
Brit. Possessions	-	-	-	-	-	-
Danish	195	51.488	153	53.577	176	56.319
Dutch	55	12.368	47	13.350	32	7.538
French	189	157.233	145	137.253	239	165551
German	1702	492.033	1638	530.377	1577	561.577
Hawaiian	-	-	14	6,622	22	16.405
Italian	7	3328	-	-	-	-
Japanese	3	734	2	480	92	96.553
Norwegian	17	16.760	6	5.654	5	2.703
Russian	62	49893	40	35.837	30	33.502
Siamese	147	60.980	127	53.951	150	67.613
Spanish	48	16.727	66	28.863	73	24.038
United States	131	29368	77	22507	63	23373

1876		1877		1878	
Vessels entered & cleared		Vessels entered & cleared		Vessels entered & cleared	
No	Tons	No	Tons	No	Tons
3.547	2.410.421	1.446	566.112	1018	341.942
2	580	-	-	-	-
-	-	-	-	2	4594
8.604	5.181.643	9.042	6.497.352	9.973	7.439 373
2.133	1.336.656	5.104	3.908.334	5168	4.256.678
930	68.209	928	66.570	1692	120.679
-	-	-	-	2	1.704
202	64.610	117	36.733	150	91.726
52	26 471	63	29.247	54	28.617
228	170.749	167	163.389	174.	160.073
1.587	661.668	1376	496.908	1983	743.457
-	-	2	626	-	-
-	-	6	2964	-	-
125	117.134	106	115.263	126	123.887
-	-	-	-	-	-
47	35.694	19	5058	18	6336
99	44.027	69	32.296	62	23.428
276	72 212	308	53464	453	74.172
114	36347	54	19635	53	29728

ear	Steamers entered & cleared		Sailing Vessels entered & cleared	
	Number	Tons	Number	Tons
871	8,218	5,637,415	6,745	1,744,142
872	9,711	6,512,463	7,379	1,974,010
873	9,591	6,748,220	5,790	1,479,534.
874	10,769	8,085,716	4,853	1,220,085
875	11,406	8,364,481	5,588	1,503,160
876	12,041	8,712,997	5,905	1,513,424
877	13,708	10,635,625	5,099	1,347,966
878	14,200	11,726,915	6,728	1,719,479

U.S. Consulate General
Shanghai China

Enclosure No 1
with
Despatch No. 19.

Table showing the Entered
Total tonnage of all
Nationals at open Ports
of China from 1978 to
1878

Year	Steamers entered & cleared		Sailing Vessels entered & cleared	
	Number	Tons	Number	Tons
1871	8,218	5,637,415	6,745	1,744,142
1872	9,711	6,512,463	7,379	1,974,010
1873	9,591	6,748,220	5,790	1,479,534
1874	10,769	8,085,716	4,853	1,220,085
1875	11,406	8,364,481	5,588	1,503,160
1876	12,041	8,712,997	5,905	1,513,424
1877	13,708	10,635,625	5,099	1,347,966
1878	14,200	11,726,915	6,728	1,719,479

Shanghai China

Inclosure No. 2

to
Despatch No. 19.

Table showing Comparative Tonnage of Shipping and Clearances from 1871 to 1878.

Mar. Wood.

No. 20] Aug. 13th 1879 Rec'd Nov 6 1879 United States Consulate General at Shanghai,

Mr. Bailey Consul General. to the State Department,

Subject:—

ABSTRACT OF CONTENTS.

Draft on Sec of State for Miscellaneous Expenses account 2nd Quarter, 1879.

No. 20

United States Consulate General,

Shanghai, Aug. 13th 1879

Hon. Chas. Payson

3rd Asst Secretary of State,

Washington, D.C.

Sir,

I have the honor to inform you that I have drawn on the Secretary of State for the sum of six hundred and sixty-seven 53/100 dollars ($667.53) to balance my Miscellaneous Expenses account for the 2nd Quarter of 1879. The account and vouchers were duly forwarded in my number 14 of yesterday's date.

I have the honor to remain

Your Obedient Servt

[signature]

Consul-General

No.

Mr.

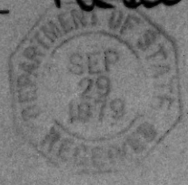
Subj

Wallwood.

No. 21] Aug. 13th 1879 Ackd Aug 6/79 United States Consulate General at Shanghai,

Mr. Darby Consul General. to the State Department,

Subject:— Receipts of Exhalations.



ABSTRACT OF CONTENTS.

Acknowledges Receipts of Numbers 9 and 10.

No. 21

United States Consulate General,

Shanghai, August 15th 1879

Hon. Charles Payson

Third Assistant Secretary of State,

Washington, D.C.

Sir,

I have the honor to acknowledge the receipt of your despatches numbered respectively 9. and 10. the latter bearing date June 21st 1879.

I have the honor to be.

Sir

Your obedient Servant

David H. Bailey

Consul-General

W. Wood

(Despatch) Feb. Vol 76

No. ____] August 15th 1879 United States Consulate General at Shanghai,

Mr. Bailey Consul General. to the State Department,

Subject:— Telegram - June 19th 1879

DEPARTMENT OF STATE
SEP
29
1879

ABSTRACT OF CONTENTS.

Copy of telegram sent June 19th asking Consulate clerk to be assigned to this post.

(Separate)

No. _____

United States Consulate General,

Shanghai, Aug 15th 1879

Hon. Charles Payson
Assistant
Third Secretary of State,

Washington, D.C.

Sir,

By inadvertence I have omitted to transmit a copy of a telegram, which I now have the honor to report as having been sent, as follows:

"Shanghai June 19th 1879"

" Payson - State Department "

" Washington "

" Can Consular Clerk be assigned "

" here? Necessary. Shall I nominate "

" or will Department send? "

" Bailey "

Heretofore, for many years,

there has been such a clerk,
and for a considerable
period two, at this post.

In my opinion the necessity for
such clerical assistance in this
Consulate was never greater
than now, and it was in view
of this exigency, and on the
suggestion of Mr. Seward,
with whom I had conversed
on the subject, that I sent the
telegram.

I have the honor to be,
Sir,
Your most obedient Servant
David D. Bailey
Consul General

Mr. Wood

No. ~

United States Consulate General,

Shanghai, August 18th, 1879.

Ack

Sir:

I have the honor to acknowledge the receipt of your communication of the 22nd July last informing me of my appointment to the post of Interpreter at this Consulate General and advising me of your having forwarded my Commission for that post through the Consul-General Bailey.

The document named has been duly handed me by Mr. Bailey, and I now beg to tender my grateful acceptance of the honor that has been conferred upon me.

The several instructions contained in the communication under acknowledgment

To

Charles Payson, Esq.,
Third Assistant Secretary,
Department of State,
Washington, D. C.

elements have had my careful attention; and, as directed, I have read the communication to Hon. Consul General Bailey and handed him an Official Copy of the same for file in his office.

By this opportunity I beg to return enclosed herewith, my Oath of Allegiance to the United States this day executed by myself and sworn to and subscribed before Hon. Consul General Bailey with the Seal of his Consulate General duly affixed.

I have the honor to be,
Sir,
Your Obedient Servant
R. P. Maclay,
Interpreter
United States Consulate General,
Shanghai, China.

Enclosure.
Oaths of Allegiance duly executed.

No.

Mr.

Subj

Mr Wood.

No. 22] Aug 29 187 9 Act Mar 6/80 Date for 60 days granted Oct 1/79

United States Consulate General at Shanghai,

Mr. Bailey Consul General. to the State Department,

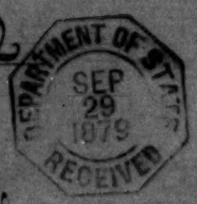
Subject:— Mrs Consul Lincoln's leave of absence

DEPARTMENT OF STATE
SEP
29
1879
RECEIVED

ABSTRACT OF CONTENTS.

Approves Mrs Lincoln's application for leave of absence.

No. 22



United States Consulate General,

Shanghai, August 19 1879

Hon. Charles Payson

Third Assistant Secretary of State,

Washington, D.C.

Sir,

Referring to Mr. Consul Lincoln's dispatch No. 79. of the 9th instant requesting leave of absence to visit the United States. I have the honor to report my approval of his request. His continued and faithful service of Mr Lincoln at his post for more than four years entitles his request, in my opinion, to the favorable consideration of the Department.

I have the honor to be

Sir.

Sir,

Your obedient Servant

Saml. L. Gaillard

Saml. Gaillard

Ack'd No. 649

Mr. Wood

No. 23] Septr. 3rd 1879 United States Consulate General at Shanghai,

Mr. Bailey Consul General. to the State Department,

Subject:— Miscellaneous Expenses Account, 1st quarter 1879

DEPARTMENT OF STATE
OCT
16
1879
RECEIVED

ABSTRACT OF CONTENTS.

Acknowledges receipt of Department Despatch No. 12 has made the different transfers, but thinks the decision of the Department harsh, on account of the necessity of at least one of the charges.

No. 23

United States Consulate General,

Shanghai, September 3rd 1879

Hon. Chas. Payson

3rd Asst. Secretary of State,

Washington, D.C.

Sir,

I have the honor to acknowledge the receipt of your Despatch No. 13, dated July 7th 1879, in which you inform me that three items of my Miscellaneous Expenses Account, for the first quarter of 1879, have been disallowed by the Department.

The first item, voucher No. 16, for $24.55, was erroneously debited to that account when it should have been charged to my private account. As to the other two items, although I have credited the account with the sums, viz: $39, the decision of the Department appears to me to be rather harsh. Especially is this the case as regards

the $9. for conveyances for a visit of ceremony to the Toutai, the expense of which was absolutely necessary and only incurred that the dignity of this office might be properly maintained in the eyes of the Chinese.

The different transfers will appear in my account for the present quarter.

I have the honor to remain

Your Obedient Servt

David H. Bailey

Consul General.

No. 24 Sept 8 1879 United States Consulate General at Shanghai,

Mr. Darby Consul General. to the State Department,

Subject:— Estates of C. J. P. Hudson and C. H. Hudson

ABSTRACT OF CONTENTS.

Transmits monthly Effects.

No. 24.

United States Consulate General,

Shanghai, 8th September 1879

Hon. Charles Payson

Third Assistant Secretary of State,

Washington, D.C.

Sir,

Referring to my despatches No 10 and 11, both dated July 30th, reporting the deaths of C. T. P. Hudson and C. H. + Hutchinson citizens of the + United States, I now have the honor to forward here, with copies of the Sworn + inventories and appraisals of both Estates.

In the case of C. T. P. Hudson all the effects are held under a landlords lien by an English +

subject

subject. Claims have been filed in each case for several hundred dollars:

In the case of Hutchinson, I have charged no fees in this office for the settlement of the Estate, and I have induced the Creditors to forego their claims in order that the widow and children might have the small amount left by deceased for their immediate wants.

I have the honor to be,

Sir,

Your Obedient Servant

David H. Smith

Consul General

(Copy)

In the Matter of the Estate of
C. T. P. Hudson deceased

Inventory and Appraisement of the effects of the deceased made by order of the U. S. Court for the Consular District of Shanghai.

		value
1	old Portmanteau	$.- 25
3	Suits of Clothes	4. 50
1	Dress Coat	3
10	old linen Shirts	2.-
8	new do	8.-
1	Stationery rack	.- 50
	a lot of old hats & caps	1.-
5	pairs white Pants	2..50
3	Jackets	3.-
2	pair old Boots	1.-
	a lot of Underclothing	6.-
	Carry over	$ 31. 75.

Brought forward $ 31. 75

a lot old books 2. —

1 pair bearskin gloves .50.

$ 34. 25.

We hereby certify that the above is a full true and complete inventory and appraisment of the effects of the late C. T. P. Hudson

(signed) Alfred Veiller

H. Latham

(Copy)

Inventory of Effects belonging to the late Mr Hutchinson Dec'd Nov 6/79

Bed Room

1	Iron Bedstead	$ 8.—
1	Mattress & 2 Pillows	5
1	Bed Rug	0 50
1	Wardrobe	1.—
1	Washing stand & Basin	2 50
1	Mirror	4.—
1	Commode	1 00
1	small round Table	1
1	Clock	1 50
1	Baby's Chair (Rattan)	0.75
1	do do	0.75
1	Dressing Mirror	1.—
1	Chair	—
2	do (Bamboo)	—
1	Lamp	0 25

Carry over $ 27. 25

Brought forward	$ 27.	25
2 Candle Sticks	—	10
1 old Rifle	—	50
1 lot old Matting on the floor	—	10

Cookhouse

1 Stove 3 Iron Saucepans 1 Iron Tea Pot 1 old Teapot 1 lot Crockery Ware 2 frying Pans 1 Bath Tub 1 empty Barrel 2 Water Kongs 1 lot old Matting	5.	—
1 Spittoon	0.	25

Clothing

3 Shirts (Linen 3 pair Pants (Duck) 4 Coats (d.	5.	—
1 Coat	1.	—
Total	$ 39.	20

Shanghai August 4th 1879 fpe

We the Undersigned do hereby certify the foregoing to be a true and correct inventory and appraisement of the effects of the Estate of Charles Henry Hutchison deceased.

(signed) R H. Maclay

Alfred Weiller

Appraisers.

Subscribed and sworn to be for me August 4th 1879 at Shanghai

(signed) H. Latham Clerk

Consular District
of Shanghai

Inclosure No. 1.

With despatch No. 24.

Inventory and Appraisal
of Effects of
Mr. Hutchinson
Deceased

August 4th 1879

Consular District

1 sick + public deaths, C. P. Wood

No. 25] Sept 8 1879 United States Consulate General at Shanghai,

Mr. Berry Acp's Nov 6/79 Consul General. to the State Department,

Subject: Deaths of American citizen

DEPARTMENT OF STATE OCT 10 1879 RECEIVED

ABSTRACT OF CONTENTS.

Reports death of Wm Smith.

Entered + Indexed Oct. 8. 79.

No. 25

United States Consulate General,

Shanghai, 8 September 1879

Hon. Charles Payson

Third Assistant Secretary of State,

Washington, D.C.

Sir,

I regret to have to report the death of William Smith a citizen of the United States, at Shanghai, on the 24th day of August.

He left a small amount of property which is devised to parties in Shanghai

Herewith I have the honor to transmit a copy of his last will and Testament.

When his effects are exactly ascertained I shall forward full information of the same.

He

He was a native of Philadelphia Pa. and his surviving relatives reside there.

I have the honor to be,

Sir,

Your Obedient Servant

David L. Bailey

Consul General

(Copy)

This is the last Will and Testament of me William Smith a citizen of Philadelphia State of Pennsylvania of the United States of America. — I direct that all my just Debts and funeral and Testamentary Expenses be paid and satisfied by my Executrex hereinafter named, as soon as conveniently may be after my Decease. —

I give devise and bequeath to Ah-tz a Native of Kiang-Soo Province in China all and every my Household furniture, Linen and Wearing Apparel, Books, Plate, Pictures, China Horses, Carts and Carriages, and also all and every Sums and Sum of Money which may be found in my House or be about my person or due to me at the time of my decease and also all my Stocks funds, and Securities for Money, Book Debts, Money

Money on Bonds, Bills, Notes or other Securities and all and every other of my Estate and Effects, whatsoever, both Real and Personal, whether in Possession or Reversion, Remainder or Expectency unto Mt-tz to and for her own use and benefit absolutely.- And I nominate, constitute and appoint Peter Jacob Rohde and John Louis Pilot in Shanghai to be Executors of this my Will; and hereby revoking all former or other Wills and Testaments by me at any time heretofore made, I declare this to be my last Will and Testament.-

In Witness whereof I the said # William Smith have to this my last Will and Testament set my Hand the Twenty Eight day of November in the year of our Lord One Thousand Eight Hundred and Seventy four (signed) William Smith.

8

(Testators Signature

Signed sealed published and declared as and for the last Will and Testament of the said William Smith in the presence of us who in his presence and in the presence of each other, all being present at the same time have hereunto set our hands as Witnesses thereto on the day of the date above written

(Signatures of Witnesses)

(signed) M. J. Dolan

P. S. Rohde

Consular District
of Shanghai

Inclosure No 1.

With despatch No. 25.

Last Will and Testament
of William Smith
deceased

November 28th 1874.

Judge O'Connor

Wood

No. 26] September 8th 1879 United States Consulate General at Shanghai,

Mr. Bailey Consul General. No. 1 to the State Department,

Subject:— Comity of Courts

ABSTRACT OF CONTENTS.

Transmits Copies of Correspondence &c between Mr Davenport H. B. M. Consul, Chief Judge French and Mr Bailey, Consul General

Inclosures

No 1. Warrant of attachment
In case "Kesavins" vs Clyphant & Co

No 2. do do

No 3. Mr Bailey to Chief Judge French
Transmits Warrant of attach.t for endorsement of British Supreme Court.

No 4. Chief Judge French to Mr Bailey
refusing endorsement of Warrant

No 5. Warrant of attachment
against Clyphant & Co's monies &c in the hands of a British Bank

No 6. Mr Bailey to Mr Davenport
requesting endorsement of Warrant of attachment.

No 7. Mr Davenport to Mr Bailey
fixing the time for a meeting with Chief Judge French

No 8. Mr Jansen's letter to Mr Bailey
Complaint of entry of his premises by British Officers -

No 9. Mr Davenport to Mr Bailey
regarding endorsement of Warrant of Execution in Vernons' Case.

No 10. Mr Bailey to Mr Davenport
transmitting Mr Jansens' Complaint

No 11. Chief Constable Barnes to Mr Davenport
Explanation regarding entry into Mr Jansens' premises.

No 12. Mr Jansens letter
Claiming landlords lien on Vernons' effects.

No 13. Mr Davenport to Mr Bailey
regarding irregular entry of Mr Jansens premises by his Officers

No 14. Mr Bailey to Mr Davenport
acknowledging receipt of explanations in reply to Mr Jansens Complaint.

No 15. Mr Bailey to Mr Davenport
referring to refusals of endorsing Warrants of execution &c and to Comity of Courts.

No. 26

United States Consulate General,

Shanghai, 8 September 1879

Hon. Charles Payson

Third Assistant Secretary of State,

Washington, D.C.

Sir,

I have the honor to transmit herewith copies of Correspondence + between H. B. Mᵉˢ Consul, Mr Arthur Davenport, George + French Esquire, Chief Judge of H. B. Mᵉˢ Supreme Court for China and Japan, and myself concerning the enforcement of certain writs of our respective Courts.

At present I do not deem it + necessary to enter into a further + discussion of the Subject than is contained in my letter No 12, 131 of.

of June 25th to Mr Davenport.

I submit the correspondence for your information in the event of its being thought advisable to effect an arrangement, if practicable, whereby the two Courts can consistently assist each other in the enforcement of their writs in the Interest of Justice.

Copies of this correspondence have been sent to the Legation at Peking where, it is to be hoped a solution of the situation may be arrived at.

I have the honor to be

Sir,

Your obedient Servant

David H. Bailey

Consul General.

(Copy)

No 711. In the United States Court for the Consular District of Shanghai

The Bank Kessrins[s]

vs.

W.W. Parkin et. al. } In Admiralty
composing the firm of
Olyphant & Co

The President of the United States to the Marshal of the district of Shanghai

Greeting:

Whereas a libel has been filed in the United States Court for the Consular District of Shanghai on the 18th day of December 1878 by F. W. Call, Master of the American Bark Kessrins[s] against W.W. Parkin, Talbot Olyphant, H.S. Geary, Tobias Linn, J. F. Seaman and

and G.W. Talbot, Composing the
firm of Clyphant Hee in a certain
cause of Contract, civil and maritime,
for a balance due for freight, and charter
party, amounting to five hundred
and five & 76/100 Dols and praying
that a warrant of arrest may issue
against said defendants, and that
they may be held to bail, pursuant
to the rules & and practice of this
Court: You therefore are do hereby
empower and strictly Command
and charge you, the said Marshal,
that you take and arrest the said
defendants or any of them, if to be
found in your district and them
safely keep, so that you may have
their bodies before the said Court on
the 24th day of December instant
then

then and there to answer said Abel and make their allegations in that behalf, and if the defendants, nor either of them can be found in your districts, that you attach their goods chattels, credits and effects, or the goods chattels credits and effects of either of them in your districts to the amount sued for; and have you then and there this writ with your return thereon.

Witness:

The Honorable D. H. Bailey Lieutenant General and Judge of said Court this 18th day of December A.D. 1878.

Eg. H. Latham

(Seal) Clerk of Court

Shanghai
China

Enclosure No 1
With Despatch No 26.

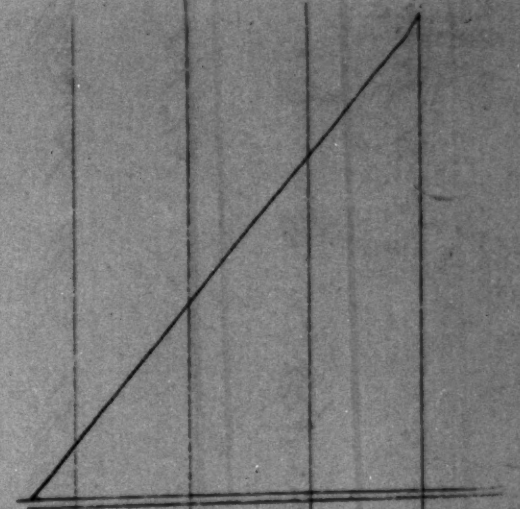
Warrant of
Attachment
Dec 18th 1878

District of Shanghai

Bank Reserves
vs
W. M. Parkins et al

Warrant
Dec 18th 1878

Mance the defendants being found in this District I have attached the goods of the defendants as will appear by the Returns annexed Schedules, And I deem them insufficient to secure the claims sued for - I further return that I verily believe that the Defendants have Monies Credits and effects in



the Chartered Bank of Ind. Australia and China within the jurisdiction of this Court.

sig'd H. Latham
Marshal

The above return of marshal is filed this 19th day of December 1878.

sig'd H. Latham
Clerk

and Company, in a certain Cause of Contract Civil and Maritime, for a balance due for freight on Charter party, amounting to five hundred and five 76/100 Dols 5d. and praying that a warrant of arrest may issue against said defendants, and that they may be held to bail, pursuant to the rules and practice of this Court.

Now therefore we do hereby empower and Strictly Command you, the said Marshal, that you take the said Defendants, or any of them, if to be found in your district, and them safely keep so that you may have their bodies before the said Court on the 27th day of December 1878 then and there to answer said libel and make

their

allegations in that behalf and if the said defendants, nor either of them can be found in your district that you attach their goods and chattels or the goods and chattels of either of them in your district to the amount sued for, and if sufficient goods and chattels cannot be found that you attach their credits and effects or the credits and effects of either of them to the amount sued for, in the hands of the Chartered Mercantile Bank of India London and China, a corporation duly organized, and doing business at Shanghai, James A Taylor, manager thereof, and that you summon the said James A Taylor to appear before this Court on the 27th day of December, to do and abide by what may be required of him, in said Bank in their behalf. and have you then and there

this

No 711. In the United States Consular Court for the Consular District of Shanghai.

The Bark "Tessenius"

v.

W.W. Parkin et. al. composing the firm of Clyphant & Co

In Admiralty

The President of the United States to the Marshal of the District of Shanghai:

Greeting

Whereas a libel has been filed in this Court on the 18th day of December 1878 by F.W. Call the master of the American Bark "Tessenius" against W.W. Parkin, Talbot Clyphant, H.S. Geary, G.W. Talbot, Tobias Pine and S.F. Seaman composing the firm of Clyphant

and

this writ with your return thereon.

Witness my hand and the Seal of this Court this 19th day of December a.D. 1878.

(Sd.) David H. Bailey

Vice Consul General

Acting as Judge

U.S. Consulate General Shanghai China

Returned to Clerk with Affidavit No 26.

Warrant of Attachment for Monies and Credits of Defendants in hands of Ch. & Co. Bank & Robt Swan & Co.

December 19th 1878

Copy

In the United States Court for
the Consular District of Shanghai

To the Honorable G. French Chief Judge
of Her Britannic Majesty's Supreme Court
in China and Japan.

Whereas a certain Cause of Contract,
Civil and Maritime is pending before us,
between a citizen of the United States,
master of the american Bark "Rosevine"
and W.W. Parkin, Talbot Clyphant,
H.S. Geary. G.W. Talbot, Tobias Finn
and J.F. Seaman, citizens of the
United States, Merchants, composing
the firm of Clyphant & Co, doing business
at Shanghai, for a balance due on
an account Stated under a Charter
party, and it is made to appear
that certain credits and effects
belonging to said Clyphant and
Company

+ Company or some of the members of that firm, are now in the hands of the Chartered Mercantile Bank of India London and China, Limited, a British Corporation, James Taylor, a British Subject, manager at + Shanghai, and that none of the + defendants can be found in this district; we therefore have the honor to request you that in the furtherance of justice, you will endorse and approve the accompanying warrant of arrest and garnishment, or issue such other order or process, as may be necessary to compel due obedience to the said Garnishment. And we will be ready and willing to do for you the same, or a like service when required.

Witness

Witness my hand and seal of
this Court this 20th day of
December A.D. 1878.

(sig'd) David K Bailey

Vice Consul General

for the United States

(seal) acting as Judge.

Shanghai
China

Inclosure No 3.

With despatch No 26.

Letter & letter Bailey transmitting warrant of attachment for endorsement of British Supreme Court

December 20th 1878

Copy

The Chief Judge of Her Britannic Majestys Supreme Court for China and Japan has the honor to inform David H. Bailey Esqre. His Consul General for the United States, that the Chief Judge has not any power or authority to endorse or approve the Warrant of arrest and garnishment in the Cause of the Bank Assurin's v. A. W. Parkin and others + Compacing the firm of Olyphant and Company, in order to attach the Credits and effects of the + defendants or any or either of them in the hands of the Chartered Mercantile Bank of India London and China doing business in Shanghai,

James

James A. Taylor, Manager thereof,
Or to summon the said James
A. Taylor to appear before the
United States Court for the Consular
District of Shanghai on the
27th December to do and to abide
by what may be required of
him on the said Bank in
their behalf.

(Sig^d) George French
Chief Judge
H. B. M's Supreme Court
Shanghai 21st December 1878

(copy)

No 711. In the United States Court
for the Consular District of Shanghai

The Bark "Yesuvius"
vs
W. W. Parkin et al
Composing the Firm
of Olyphant & Co

In Admiralty

The President of
the United States, to the Marshal of the
district of Shanghai
Greeting

Whereas a libel has been
filed in the United States Court for the
Consular District of Shanghai, on the
18th day of December 1878. by F. W. Call
Master of the American Bark "Yesuvius"
against W. W. Parkin, Talbot Olyphant,
H. S. Geary, G. W. Talbot, Tobias Finn
and John Seaman, Composing the Firm
of

of Clyphant & Co in a certain Cause of Contract, civil and maritime for a balance due for freight, on a ℔ Charter party, amounting to five hundred and five 76/100 Tails S. S. and praying that a warrant of arrest might issue against said Defendants and that they may be held to bail ℔ pursuant to the rules and practice of this Court, and return having been made on said Warrant that none of the Defendants could be found in your District, and that sufficient goods and Chattles, to secure said balance sued for cannot be found in this district

Now therefore we do empower, and command you, the said Marshal, that you attach their funds, monies Credits, and effects of either of them

to

to the amount sued for, in the
hands of the Chartered Bank of
India, Australia and China, a
Corporation duly organized and
doing business at Shanghai, Thomas
Forrest, a British Subject, Manager
thereof, and that you Summon
the said Thomas Forrest to appear
before this Court on the 27th day
of December 1878 to answer on
oath touching said monies, debts,
funds and effects, the property of
the Defendants, believed to be in
the Custody of said Bank, provided,
however, that you first obtain on
this writ the endorsement and
approval of Her Majesty's Consul
at Shanghai or other proper Officer
of Her Majesty's Service thereat:

and

and have yam then and there this writ with yam return thereon.

Witness my hand and the Seal of this Court this 24th day of December 1878.

(sig'd) David H Bailey
Act'g Attorney General
Acting as Judge

(Copy) Return.

H. J. Court for the Annular District of Kaughai

On this 24th day of December 1878 I executed the within Warrant of attachment with a Letter of Recommittal from D. H. Bailey Esq to Wm Cannel at Kaughai and was informed by him that he had no power or authority to act in the Matter, and further was informed that he cannot comply in writing with the said D. H. Bailey Esqs request this matter and by reason of the refusal of the Wm Cannel to endorse this writ I was unable to make the service -

(sig'd) H. Latham
Mar.

The Above return filed
Dec 24. 1878
(sig'd) H. Latham
Clerk

Kaughai
Claim

Defendant
Wm Cannel

Claim of Defendant
and a Counter

December 24th 1878

Copy

United State Court for the Consular

District of Shanghai

To Arthur Davenport Esquire

H.B.M. Consul

Shanghai.

Whereas a certain Cause of Contract
Civil and maritime is pending
before this Court, between a citizen
of the United States, Master of the
American Bark Vesuvius and
W.C. Parkin, Talbot Olyphant &
W.S. Leary, G.O. Talbot, Tobias
Pim and J. F. Seaman, citizens
of the United States and merchants
composing the firm of Olyphant & Co
doing business at Shanghai, for a
balance due an account Stated, under
a charter party, and it is made
to appear, that none of the defendants

Can

can be found in this District, and
that sufficient goods and chattels
belonging to said defendants, to
satisfy said claim sued for, ≠
cannot be found therein, and
it being further made to appear
that there are certain monies,
funds credits and effects, the property
of said Defendants, in the Custody
and keeping of the Chartered Mercantile
Bank of India, Australia and
China and in the office of said Bank
at Shanghai, whereof and whereat
Thomas Forest, a British Subject,
is Manager, It is therefore
respectfully requested that you will
in furtherance of justice approve
and endorse the accompanying ≠
Warrant of attachment, or writ,

or

a cause to be issued, a similar,
or such other order or process as may
be deemed proper and necessary to
subserve the ends of justice.

And this Court will be ready
and willing to do for you the same,
or a like service when called upon.

It may be added that in actions
"in personam" under the American
Admiralty system, when defendants
cannot be found within the district
of the Court exercising jurisdiction,
the attachment of their property
is made for the purpose of compelling
an appearance, and is necessary to
give the Court jurisdiction to
pronounce a final judgement -
It would seem to follow, in view
of our peculiar relations to, and
with

with Chiefs, that if the endorsement of the British authorities is necessary as it is believed to be, to make such a Writ valid and binding on British Subjects, and such endorsement is refused, justice must in such cases be defeated, unless some other procedure not now contemplated, may be discovered.

Witness my hand and the Seal of this Court, this 24th day of December A.D. 1878.

(sig.) David H. Bailey

Vice Consul General of the United States acting as Judge

seal

U.S. Consulate General

Shanghai, China.

Inclosure No 6

With despatch No 26

Letter from Mr Bailey
Judge US Court requesting
endorsement of Warrant
of Attachment of Monies
&c in keeping of Ch=
Mc Bank of Ind. Aust.
& China -

December 24th 1878

(Copy)

28 December 1878

My dear Mr Bailey

Judge French will be happy to see you on Monday at 2. P.M. when I feel assured that you will have no difficulty in arriving at an understanding respecting the Chartered Bank Case.

Believe me,

Yours very truly

(Sd) Arthur Davenport.

(Copy)

Shanghai 2 June 1879.

D. H. Bailey Esq.

U.S. Consul General

Shanghai.

Sir.

I beg to call your attention to the insulting manner in which I was treated by the British Authorities at this port, while absent from my house last Saturday the 31st ultimo. On returning from an afternoons drive I was informed by my Clerk that an English Bailiff had entered the Hotel during my absence, attached the luggage of a Mr Vernon - aboarder in the Hotel, and had locked the back door

OP

of the room he occupied and was then keeping guard on the front Verandah to prevent any thing being removed. In answer to a question put to the Bailiff he said he was there by order of the English Consul and produced a paper bearing that officials Seal. I informed him that I had nothing whatever to do with the British Consul, and ordered him off the premises, & telling him at the same time, that if he did not go I should be obliged to call a policeman and have him arrested as an intruder. Shortly after this the British Consulars & Constable arrived, when I repeated to him what I told the bailiff. He

He said something about going to the American Consulate to get this paper stamped, but as it was after office hours I advised him to return and report the affair to his Superior. He then left the Hotel, but the bailiff, I have since learned, kept watch outside the front gate until midnight.

I wish particularly to report this to you because as it now stands it is nothing but a gross insult to not only myself, but to the rights of every American citizen in the place. If the British Consul has the power to put a bailiff in my house without the Sanction of the U.S. authorities at this place, I might as well give up all

all idea of protection.

I am,

Sir

Your Obedient Servant

(Sd) Dewitt C. Jansen.

U.S. Consulate General

Hankow

China

Enclosure No 8

Dispatch No 36

Copy rec'd

Consular Service

June 2nd 1879

(Copy)

H. Ms Consulate

Shanghai June 4th 1849.

Sir,

I am sorry to be obliged to trouble you with this letter.

On the 3d instant I instructed my officer, Chief Constable Barnes, to proceed to your Consulate-General to request you to back three warrants of execution issued out of H. Ms' Supreme Court for China, against goods of a British Subject named Vernon, who had been lodging in the Astor House Hotel in this Settlement, the manager of which, Mr Jansen, is a United States Citizen. Mr Barnes shortly

D. H. Bailey Esqr

United States Consul-General

Shanghai

shortly returned and made a
report to the following effect:
" According to your instructions this"
" morning to apply to have the Warrants "
" of Execution on Howard Vernon &"
" stamped by the United States &"
" Consul General I beg to state that "
" I applied to Mr Latham, Clerk "
" of the Court, who took the Warrants "
" to D. H. Bailey Esq^r, and returned "
" with the following reply: Mr Bailey "
" will not stamp these Warrants; "
" for, on a previous occasion, he "
" Mr Bailey, applied to the Chief "
" Judge of the Supreme Court to sign "
" a document for some money "
" that was in a British Bank, "
" and he (the Chief Judge) refused "
" to stamp these Warrants" The

The occasion referred to is, I presume, that of the Barque "Lessurius" vs Alyphant and Company, in which however, the reason of Chief Justice Finch's refusal to sign the order applied for was that by the law of England he did not possess the power to sign it. The message brought back by Constable Barnes was a verbal message, the repetition indeed of a message stated to be transmitted from yourself through the clerk of your Court.

The Service of Warrants of execution is a question of so much importance on both sides that it may involve a reference to our respective Legations.

Under these Circumstances I am

am sure that you will excuse
me if I request you to inform
me officially whether you
refused to back the Warrants
issued to Constable Barnes, and,
if so, to have the goodness to
give me your reasons for so
doing.

I have the honor to be
Sir,
Your obedient Servant
(Sd) Arthur Davenport
Consul.

Shanghai
China

Inclosure No 9

With dispatch No 26

Copy of H. Davenports
letter to Geo Bailey
relating to endorsement
of Warrants of Execution
in Vernon's Case

June 7th 1879.

Copy

U.S. Consulate General.

Shanghai June 9th 1879.

Arthur Davenport Esqr

H.M. Consul

Shanghai

Sir

I have the honor to enclose herewith a copy of a letter + addressed to me as Consul General for the United States by Dewitt C. Jansen Esqr an american citizen, Concerning an alleged unlawful entry of his premises by an English Bailiff on the 31st ultimo.

I regret the necessity of having to forward this communication to you, but I must beg to be informed whether the statements in Mr Jansens letter are true.

I have the honor to be Sir
Your Obt Servant
(sigd) David H Bailey
Consul General.

U.S. Consulate General

Shanghai

Inclosure No 10

With Despatch No 26

H. Bailey U.S. Consul General to Hon Davenport H.B.M. Consul at Shanghai transmitting Mr Jarvis letter complaining of an unlawful entry of his premises

(Copy)

Shanghai June 10th 1879

Sir

In reply to the letter handed to me from the United States Consulate, I beg to state that I entered the Astor House Hotel to take possession of Mr Simms' property with the full knowledge and Consent of Mr Jansen's representative Mr Sladgett, (I believe a British subject) who told me that I could take possession but take nothing away as he was responsible for the house during Mr Jansen's absence, I then locked the backdoor and gave Mr Sladgett the key and then placed a Bailiff to watch the front door to see nothing removed.

I was

Arthur Davenport Esqr
H. B. M. Consul

I was informed by the Plaintiffs Counsel that Mr Jansen was a Danish Subject and upon applying to the Danish Consul for Authority was informed that Mr Jansen claimed American protection.

Finding the United States Consulate Closed I returned to the Astor House Hotel and found Mr Jansen had returned and had ordered the Bailiff off the premises. I told the Bailiff to remain in the public ≠ thoroughfare and if he saw ≠ any luggage marked "Vernon" to see which Steamer it was put on board and let me know as Mr Vernon was leaving for Japan the following morning and I was

not sure whether his luggage would be put on board the "Glenfinlas" or the "Dragon" as both Steamers were to leave for Japan the Same morning

I beg to remain &c

sig^{d} Alfred Barnes

Chief Constable

Shanghai

Inclosure No 11

With despatch No 26

Chief Constable
Barnes to
Mr Davenport

June 10th 1879.

Copy

Shanghai 12. June 1879.

To David H Bailey Esq^re

US Consul General

Shanghai

Sir,

In order that the verbal Statements made by me in reference to the writ of execution, issued by the British Authorities against the personal effects of the H. Vernon, may be placed on record I beg to state:

That on the evening of the 31^st of May I met Dr Latham near the Garden Bridge and informed him of what had taken place at the Astor House a few hours before, and requested that I should the British Consul to attempt to get the said writ stamped at the US Consulate before it caused report

report the affair to you he should inform you of her having indebted to me for board and lodging, and that intended to hold the effects under a landlord's lien.

These facts were I believe reported to you by Dr Latham on the following day and also verbally by myself on the morning of the 2d instant.

I am, Sir,

Your obt Servant

(sig'd) D. C. Sarrand

Copy

H. M's Consulate

Shanghai 13. June 1879.

Sir,

I have the honor to acknowledge the receipt of your despatch of the 9th instant forwarding a copy of a letter you had received from Dewitt C. Jansen Esquire, an United States citizen, complaining of an unlawful entry of his premises by one of my officers.

In reply I beg to enclose a copy of a report from the officer in question explaining how the unintentional error occured, and at the same time request you to assure the above mentioned Dewitt C. Jansen Esq., that he need not apprehend any further visits

of

of this nature on the part of my officer without your prior sanction.

I have the honor to be

Sir,

Your obedient Servant

Sd. Arthur Davenport

Consul.

Copy

U.S. Consulate General

Shanghai June 24th 1879.

Arthur Davenport Esquire

H. M's Consul

Shanghai

Sir,

I have the honor to acknowledge the receipt of your despatch No 110 bearing date June 13th enclosing a copy of a letter from Chief Constable Barnes explaining the circumstances under which he entered the premises of Devitt & Sansom Esq., and I am requested to inform Mr Sansom that he need not apprehend any further visits of that nature on the part of your officer, without my prior sanction. The

The information will be communicated as requested.

Thanking you for the explanation and for the assurances contained in your despatch,

I have the honor to be

Sir,

Your obedient Servant

(sig.) David H. Bailey

Consul General

Copy

United States Consulate General

Shanghai June 25th 1879

Sir,

I have the honor to acknowledge the receipt of your despatch No 10 of the 7th instant, concerning certain writs of execution issued out of Her Britannic Majestys Supreme Court for China, against the goods of a British subject, named Vernon, who had been lodging in the Astor House Hotel, in this Settlement, the manager of which, Mr Jansen, is a citizen of the United States, and which writs I had been requested by your Chief Constable

To Arthur Davenport Esq — Barnes

H Ms Consul

Shanghai

Barnes, on the 2d instant, to back with a view to authorize a levy against the goods of Vernon.

Mr Barnes reports to you a conversation had with Mr Latham, clerk of this Court, concerning my refusal to stamp the warrants, and I am asked to inform you whether I refused to back them, and if so to give my reasons therefor. My remarks are inaccurately reported by Mr Barnes.

On the 20th of December last a suit, in Admiralty, having been commenced in the United States Court for this Consular District by the American Barque "Vesuvius" against Messrs Alphant & Co, citizens of the United States, and it appearing that certain Credits and Effects belonging

belonging to the defendants were then in the hands of the Chartered Mercantile Bank of India London and China, a British Corporation, I applied in due form, as Judge of this Court, to the Chief Judge of Her Britannic Majesty's Court for China and Japan, for an endorsement, or other order or process, to hold said credits and effects subject to execution in satisfaction of a judgment of said Barque "Essendis", should a judgment be obtained in that behalf.

To this application the Chief Judge of Her Britannic Majesty's Supreme Court replied, December 21st that he had no power or authority to endorse or approve the said Warrant.

Referring to treaties it occured to

me

me that perhaps Her Britannic Majesty's
Consul was the proper official to whom
I should make application as the
person having power and authority
to endorse and approve the said
Warrant of attachment, accordingly
on the 24th of December last I addressed
in my judicial Capacity, a letter to
you, a copy of which I enclose, requesting
you to approve and endorse the Warrant
of attachment, or issue or cause to be
issued, a similar or such other order
or process, as might be deemed proper
and necessary to subserve the ends of
Justice. To this letter I have not had
the honor to receive an acknowledgment.
On the 28th of the same month you were
kind enough to send me a note saying
that if I would call on Judge French
on

on the following Monday you left
assured that I could have no difficulty
in arriving at an understanding
concerning the matter in question.
In accordance with this intimation,
I called on Chief Judge French, at the
time named in your note, but found
his views as expressed then, were not
identical with those given in his
letter of December 21st. - During
the course of this interview, I put
the question to the Chief Judge as
to whether in case of the suit of
the "Vessrins" proceeding to judgment
against Oliphant & Co, he would as
Chief Judge approve and endorse a
writ of execution in said case &
issuing out of this Court, with
a view to effect a levy on said
Credits

credits and effects of said Olyphant & Co. in the custody of said Bank. The Chief Judge replied that he could not, as he had no power or authority to do so.

The situation here with reference to the various foreign Courts is so peculiar that without active Comity in the enforcement of their respective writs, justice must often be defeated; as it turns out to have been, by reason of not being able to reach the credits and effects named, in the case of a British Subject who obtained a judgment in this Court against Olyphant and Company.

In reference to the peculiar situation concerning this Comity between these Courts, the Attorney General for the United States, Mr Caleb Cushing, said

" Perhaps

"Perhaps neither Government is under perfect obligation to do this but it may do so in obedience to National Comity; it can rightfully do so if it will; and its obligation to do so will be perfect, provided the exercise of the right be reciprocated by the other Government"

On the first of June I was informed by the Clerk of this Court that your Constable had entered the premises of Mr Jansen, had there seized the goods of Mr Vernon and had levied an execution issuing out of Her Britannic Majesty's Supreme Court on the goods; that Mr Jansen had a landlords lien on the said goods, all of which will more fully appear in a letter of Mr Jansen to me, Copy of which is enclosed.

Subsequent

Subsequent to my receiving this information, the Clerk of this Court presented the Warrant of execution named in your letter, for my endorsement.

In view of the facts herein before stated, and considering that the Chief Judge of Her Britannic Majesty's Supreme Court had refused to endorse the writ of this Court in the Case of the Bayne "Vexurius" against Olyphant & Co or to aid this Court in that case by any other order or process, and had gone so far as to say that he could not authorize or assist a Warrant of execution issuing out of this Court in that Case, and having received no reply to my letter of the 24th of December, addressed

&c

to Her Britannic Majesty's Consul for Shanghai, nor having obtained any assistance from Her Britannic Majesty's Consul in that behalf, as Judge of the United States Court for this Consular District, I was under no obligation to authorize the levy of the execution, named in your letter, to be made against the goods of Vernon on the premises of Mr Jansen, for there are no such obligations unless they are reciprocal. Therefore, with much regret, I declined to give your execution validity by endorsing it.

While I fully recognize the great importance, in the interests of justice, that the various foreign Courts of Shanghai, international in character,

should

should assist each other in the
enforcement of their several Mesne
and final processes, and while, as
presiding judge of this Court, I will
go to the farthest limit of the true
rule of Comity for the purposes
named, yet, unless that Comity
is reciprocal it cannot remain
effectual

I have the honor to be

Sir,

Your obedient Servant

(Sig^d) David H. Bailey

Comm^r General

Mr. Wood.

No. 27] Sept 9 1879 United States Consulate General at Shanghai,

Mr. Bailey Consul General. to the State Department,

Subject:— Nomination of V. Consul at Chinkiang.

DEPARTMENT OF STATE OCT 16 1879 RECEIVED

ABSTRACT OF CONTENTS.

Transmits Mr Consul Bruggs No. 9, nominating Mr. Emory for vice Consul with approval

No. 27.

United States Consulate General,

Shanghai, 9 September 1879

Hon. Charles Paysan

Third Assistant Secretary of State,

Washington, D.C.

Sir,

Refering to the enclosed + despatch No 9, of Mr Consul Scruggs, nominating David Alfred Emery Esquire to be Vice Consul at Chin Kiang, I have the honor to approve the same.

I have the honor to be,

Sir

Your Obedient Servant

David H. Bailey

Consul General.

No.

Mr.

Sub

Mr. Wood.

Original Dispatch
Bond sent to Shanghai
Oct. 18/79

Rec'd Nov. 6/79

No. 28] 9 September 1879 United States Consulate General at Shanghai,

Mr. Bailey Consul General, to the State Department,

DEPARTMENT OF STATE
OCT 18 1879
RECEIVED

Subject:— Nomination of Markham for Vice Consul Gen.

ABSTRACT OF CONTENTS.

Inclosure

Copy of letter from General W. T. Sherman.

No. 28.

United States Consulate General,

Shanghai, 9. September 1879

Hon. Charles Payson

Third assistant Secretary of State,

Washington, D.C.

Sir,

I have the honor to nominate Hiram Latham Esquire of California for the office of Vice Consul General at Shanghai.

Mr Latham is now connected with this Consulate as Marshal and Clerk of the Court, and is, in my opinion, thoroughly qualified for the position I have nominated him for

He authorizes me to refer the Department as to his character and fitness to General W. T Sherman,

from

from whom he has a letter,
a copy of which I enclose; also
he begs to refer to:

General Benjamen Alvord

Hon Roscoe Conkling U.S.S.

" A. Saunders " "

" W. W. Corlett . M.C.

" W. A. Wheeler Vice President

S. E. Sickles Esq^r formerly Supt. U.P.R.R.

C. J. Hammond Esq^r " " " "

A. N. Soun Esq^r Supt C.P.R.R.

Hon I. A. Bingham Tokio

General F. B. Van Buren Yokohama.

Hoping the Department will approve
of the nomination.

I have the honor to be
Sir,

Your Obedient Servant

[signature]
Consul General.

(Copy)

Headquarters Army of the
United States
Washington D.C. Nov. 13th 1878

At the request of H. Latham M.D.
now of San Francisco, I take
pleasure in certifying that in
1866 and 1867 I had occasion
to visit the Military Post on the
South Platte, opposite the mouth
of the Lodge Pole, known as Fort
Sedgwick, commanded by Colonel
Potter then of the 4th Infantry, of
which Post the said Latham was
the Medical officer.

On many personal inspections of
his Hospital, I found it so clean,
so well ordered that I paid him
many

many official compliments, to which he was fairly entitled by his care of the sick, and by his great skill in his Profession.

I now take pleasure in reducing these verbal expressions to writing, esteeming him as an able and accomplished Surgeon

(sig^d) W. T. Sherman.
General.

Appoint if no objection appears C.P. Mr Wood

No. 29] 18 September 1879 United States Consulate General at Shanghai,

Mr. Bailey Consul General. to the State Department,

Subject:—Nomination of Deputy Consul General. Shanghai.

Acknowledged 11/19

ABSTRACT OF CONTENTS.

Nominates Alfred Meiller

Inclosure

Letter from Hon: Jno A. Bingham.

No. 29

United States Consulate General,

Shanghai, 18 September 1879.

Hon. Charles Payson,

Third assistant Secretary of State,

Washington, D.C.

Sir,

I have the honor to nominate as Deputy Consul General for Shanghai Alfred Weiller Esquire, a citizen of the United States, of the State of Missouri.

Mr Weiller has been connected with this Consulate General since October 1878 as clerk and Deputy Postal Agent and during that period his services, which have been laborious, have been highly satisfactory, as to capacity and integrity.

He authorizes me to refer, concerning his fitness for the position to General Geo. B. Williams of Lafayette Indiana;

Paymaster S. D. Barton U. S. N.; Dr McNary Navy Department Washington; and Hon Carl Schurtz Secretary of the Interior. His temporary appointment here was made by myself upon the recommendation of Hon Geo. A. Bingham in a letter, a copy of which I enclose.

Should the Department confirm the nomination I have to request that Mr Weller may be authorized to sign Invoices, Landing Certificates, Bills of Health and Shipping articles. The necessity for the appointment of a deputy Consul General with authority to sign the documents above indicated arises out of the fact that the supervisory labors of the Consul General over the general conduct of the office and the several Consulates in China, the correspondence with

with the Department at Washington, the Legation at Peking, and the local authorities, together with the almost constant judicial work of the Consular Court, are not only sufficient to occupy all his time, but to require a strain of exertion which tasks his resources enough without adding the manual work of signing this multiplicity of documents.

I have the honor to be,

Sir,

Your obedient Servant

Frank H. Bail

Consul General

(Copy)

Tokio July 29 1878

D. H. Bailey Esqr.

Hongkong

Dear Sir

In the event of your confirmation to the United States Consul General at Shanghai China, which I have been told is assured I beg leave to recommend Alfred Veiller Esqr citizen of the United States to the office of Marshal in that Consulate General.-

I have no doubt of the competency and integrity of Mr Veiller

I am Dear Sir

very truly Yours.

(signed) Jno A Bingham

Will the appropriation permit this?
C. P.
W Wood

No. 30] 16th Sept. 1879 United States Consulate General at Shanghai,

Mr. Bailey Consul General. to the State Department,

Subject:— Marshal at Amoy.

ABSTRACT OF CONTENTS.

Approves Mr Consul Goldsborough's Application for increase of Salary of Marshal at Amoy.

No. 30

United States Consulate General,

Shanghai, Sept. 16 1879

Hon. Charles Payson

Third Assistant Secretary of State,

Washington, D.C.

Sir,

Referring to Mr. Consul + Goldsborough's dispatch No. 210, of the 4th instant, asking for an increase of salary for the acting Marshal at that post, I have the + honor to report that, in my opinion, Mr. Edwards is an efficient officer, and that it is desirable to retain him in the service at Amoy, but it is for the Department to determine

Whether,

whether the marshalship
at Amoy is of sufficient
importance to warrant the
full salary of one
thousand dollars. The total
annual fees received in
that Consulate amount to
a much larger sum than
that of any other Consulate
in China except that of
Shanghai, and as other
Consulates of less importance
are reported as having
the full allowance of
one thousand dollars for
a Marshal there reasons
would seem to favor the
application of Mr Goldsbor-
ough.

J.

I have the honor &c &c

Sir,

Your Obedient Servant,

Daniel [illegible]

Consul-General

Ack + give date of papers to the Dispatch Nov. 4/79 C. P. Mr. Ord 5

No. 31] 18 September 1879 United States Consulate General at Shanghai,

Mr. Bailey Consul General. to the State Department, Mr Ord

Subject:— Cotton Crop. [File]

ABSTRACT OF CONTENTS.

Confirms the anticipation of a short Crop of Cotton in this District

No. 31

United States Consulate General,

Shanghai, 18 September 1879

Hon. Charles Payson

Third Assistant Secretary of State,

Washington, D.C.

Sir,

Referring to my despatch No 15, dated August 9th, I now have the honor to report that the continued drought has resulted more disastrously to the Cotton Crop than I estimated. The Cotton picking has progressed so far now as to make it sure that the crop will not be more than half an average yield

This will probably make a greater demand for foreign cotton

Cotton goods than usual, both in China and Japan, as the export of the raw material from China to the latter country is annually quite large.

I have the honor to be

Sir,

Your Obedient Servant

Saml. L. Southmayd

Consul General.

Ack'd Nov. 6th 1879 file Mr Wood

No. 32] 19 September 1879. United States Consulate General at Shanghai,

Mr. Bailey Consul General. to the State Department,

Subject:— China Merchants Steam Navig^n Company.

DEPARTMENT OF STATE NOV 4 1879 RECEIVED

ABSTRACT OF CONTENTS.

Enclosing the Companies yearly report (printed) and comments upon the working of the Company.

Inclosure

China Merchants S^m Co^ys printed annual Report

No. 32

United States Consulate General,

Shanghai, 19 September 1879

Hon. Charles Payson

Third Assistant Secretary of State,

Washington, D.C.

Sir,

Referring to my despatch No 19. dated 7th August, relating to the carrying trade of China, I have the honor to transmit herewith, in print, the annual report of the China Merchants Steam Navigation Company.

I have to remark in this connection that this is an experiment of the Chinese people in the management of Foreign Style of vessels, and although the Company has had an existence for six years it is only (3) three years since it assumed its present magnitude

magnitude by the purchase of the Messrs Russell and Company's fleet.

This experiment has excited great + interest among all maritime people as it was in great measure to determine the capacity of these people to do their own carrying trade, both Coast and inland; even more, it might prove whether or not, in the near future, they were to be competitors for the Ocean Carrying trade of the world.

So far it cannot be said that it has been so exclusively Chinese as to determine whether they could compete unaided by foreigners successfully for their own trade, as they have had a foreign Superintendent, and a Superintendent Engineer, and foreign Captains, mates and Engineers

an

on all Vessels. In the Department of Docks Wharves and Machine Shops they have failed to compete with foreigners and have rented their works to an American Firm, to Messrs S. C. Farnham and Company. The failure in this branch was to have been anticipated as in the whole Empire there is not one School for the dissemination of technical Knowledge. It is doubtful whether there is a China man, born in China and educated in Chinese Schools, who has any Knowledge of applied Mechanics.

They cannot in the present age construct, repair and run Steam Ships, without such Knowledge, in Competition with foreigners.

This

This Company has received a Subsidy in the way of a monopoly of the carrying of the tribute rice from the Southern Sea coast Provinces to Pekin at a rate of freight nearly double the current rates.

In reference to my despatch No 19. I have further to say that all the other Steam Companies engaged in the Coast, inland, and foreign trade of China, with the exception of the Pacific Mail Company, have paid dividends of seven (7) per cent and more.

I have the honor to be

Sir,

Your Obedient Servant

David H. Bailey

Consul General

CHINA MERCHANTS' STEAM NAVIGATION COMPANY.

REPORT AND ACCOUNTS FROM THE 1ST OF THE 7TH MOON OF THE 4TH YEAR OF KWANG HSU TO THE END OF THE 6TH MOON OF THE 5TH YEAR (30TH JULY, 1878, TO 17TH AUGUST, 1879.)

The time has now arrived for striking the annual balance of the Company's affairs, this being the sixth year since it was first started. We have accordingly made out an account of our gains and losses which we present for inspection. A detailed list of the petty expenses will be made out as well. In conformity with the Company's regulations we have sent copies of this report to their Excellencies, The Superintendents of Trade for the North and South, likewise to the Superintendents of Customs at Tientsin and Shanghai. The copies which remain over will be deposited at our central office, or distributed at our branch offices at Tientsin, Canton, Hongkong, Hankow, Amoy, and Singapore for the inspection and perusal of the shareholders. In case any points should be found in the detailed statement which are insufficiently explained, we beg our readers to be good enough to communicate such to us that we may reply on the subject.

1.—NUMBER OF SHIPS AND PORTS TO WHICH THEY TRADE.

An explicit statement is of essential importance. On the Yangtsze line, trading to Chinkiang, Hankow, &c., the Company have four steamers—the *Kiang-kwan*, *Kiang-yung*, *Kiang-foo* and *Kiang-piau;* between Ichang and Hankow, only one—the *Kiang-ping*. On the Shanghai and Ningpo line, the *Kiang-teen*, while the *Kiang-ching* and *Kiang-tung* are stationed on the Hwang-poo river, for use in case of need; in all eight river going steamers. As to the sea-going fleet, the *Pau-tah*, *Fung-shun*, *Han-kwang*, *Chin-tung*, *Hae-ting*, and *Hae-shin* work the northern line. The *Yung-ning* runs to Wênchow, the *Hae-an* to Foochow, the *Hochung* to Swatow and Amoy, the *Fu-yew* and *Hwai-yuen* to Canton, the *Tung-ting* between Canton and Macao, the *Mei-li* between the ports and Hongkong, while the *Lee-hong* is used for transhipping cargo at Taku and Tientsin. The *Yung-ching*, *Lee-yuen*, and *Yeh-sin* are employed in spring and summer in the grain transport service; in the autumn and winter seasons they assist in the Canton and Fukien trade in the south. The *Hae-shin* and *Ta-yew* are kept stationed on the Hwang-poo river for use in case of emergency. Altogether the Company owns nineteen sea-going steamers. Of the two river steamers, the *Kiang-hui* and *Kiang-yuen*, the machinery and boilers have been retained to be used in new steamers, but their hulls have been sold. The machinery and boilers have been taken out of the *Chin-si*, and her hull converted into a receiving hulk. The *Pao-k'ung*, which was purchased jointly by the Company and Messrs. Butterfield and Swire, still remains on the Hwang-poo.

2.—TRUE STATEMENT OF THE STATE OF THE COMPANY'S TRADE.

As to the river trade, the Company made an agreement with Messrs. Butterfield and Swire; while an arrangement has been come to with Messrs. Jardine, Matheson & Co. on the Tientsin and Foochow lines. In the Kuangtung trade they are intimately connected with Messrs. Siemssen and Company. During the period under review the trade on the several lines may, on the whole, be considerd prosperous. As to the grain transport, the Company received instructions from the High Authorities of Kiangsu and Chinkiang to undertake the conveyance of 480,000 piculs; and again orders were received from the Governors of Hupêh and Kiangsu to transport 90,000 piculs, all of which was duly completed in the 5th moon. Speaking of the general aspect of the trade, the freights earned, &c., a general estimate of the entire year's trade shows that it does not equal that of the spring of last year. The reason lies in the increased competition on the part of other steamers on the various lines. Fortunately, the Company has been able to rely on the custom extended to it by the various classes of its mercantile clients which has been larger than in the previous year. A further help has been the comparative cheapness of coal, from which the Company have derived some advantage. To this is to be added the fact that the Company has been working on an economical scale in accordance with the new regulations adopted in the first moon of the present year (January, 1879), so that the surplus profit is double of that of last year.

3.—SHIPS' REPAIRS.

The idea in establishing the T'sung Mou dockyard was to foster talent. It was thought that if the men were available at the present time for executing repairs, they might in time proceed to undertake shipbuilding on their own account. However, the superintendents failed to secure the proper men, and the works were consequently abandoned. On the reorgnization of the Company's affairs at the beginning of the present year, the machinery and material of the dockyard were disposed of at the original cost, and the premises were let. The repairs of the ships were given by contract to foreign dockyards, and it is found that a saving has been effected for the last half year compared with what it cost the Company to repair its own fleet. The expenses of ordinary repairs has been deducted from the freight account: but in the case of the *Hwai-yuen*, *Yeh-sin*, *Kuing-piau*, and *Kiang-ching*, whose machinery and boilers have been entirely replaced, and whose whole appearance has been altered, the cost of repairs has been added to the value of the ships. The machinery of the *Ching-tung* is of an old type; her boiler is nine years old. It is therefore proposed to refit her with machinery of a new type, and a new boiler, by means of which a saving of $\frac{3}{10}$ths, will be effected on her present consumption of coal and her carrying capacity increased by 100 tons. Though it will entail some little expenditure just now, still, future advantage will accrue in abundance. The plan for the repairs has been sketched out and it is proper that it should be estimated here.

4.—INSURANCE FUND.

The Company pursues the course of insuring its own ships, for which purpose a monthly deduction is made on freight. Last year this fund amounted to something over 72,000

Taels. On the present occasion the amount so laid aside amounts to more than 252,000 Taels, to which is to be added a sum of more than 24,000 Taels of a balance remaining over from the working expenses of the company. Deduct Tls. 200,000 as the value of the *Kiang-chang* and over Tls. 33,000 for the loss of the *Yi-tun* receiving hulk, besides Tls. 17,000 for damages by collision and unexpected repairs, and there still remains a balance of Tls. 97,000 as an Insurance Fund.

5.—VALUE OF STEAMERS.

On last occasion there were 31 steamers valued at Tls. 2,828,000. On the present occasion a sum of Tls. 155,000 must be added to the value of the four steamers—the *Hwai-yuen*, *Yeh-sin*, *Kiang-piau* and *Kiang-ching*. Writing off the value of the *Kiang-hui* and *Kiang-yuen*, the 29 steamers represent an actual value of more than Tls. 2,560,000. This reduction in the value of the steamers amounting to Tls. 300,000 odd is noted in the detailed statement.

6.—EXPLANATION OF THE VARIOUS ITEMS IN THE ACCOUNTS.

Last year the shares subscribed amounted to Tls. 751,000. Since the reorganization of the company at the beginning of the present year an additional amount of Tls. 49,600 has been subscribed. It is intended to raise Tls. 100,000 or more still to raise the total to an even sum of Tls. 1,000,000, after which no more will be raised.

As regards the item of house rent it is to be explained that since the new regulations came into operation the directors take the management of this item by contract. The several managers pay interest of five, six, or seven per cent on the value of such property belonging to the Company, which is estimated at Tls. 1,080,000.

As regards the money due to Messrs. Russell & Co., which last year amounted to 460,000 Tls., it has now been reduced to Tls. 260,000, and by paying quarterly instalments of 50,000 Taels it will be all cleared off by winter next year.

Last year the sundry deposits amounted to over Tls. 1,472,000, which gave rise to much public comment; now they have been reduced to 620,000 odd Taels, which would seem to show evidence of rapid prosperity.

As regards the Insurance Fund, after paying off the price of the *Kiang Chang* and *Yi-tun*, and defraying the expenses of collisions, there remains a balance of more than 97,000 Taels. It behoves that this sum be kept in reserve to meet unexpected contingencies.

After deducting the expenses of our fleet, establishments, &c., there is a gross profit of Tls. 760,000. Deduct Taels 230,000 as interest for borrowed capital, Tls. 70,000 as a dividend of 10 per cent on the shares, and Tls. 420,000 odd for depreciation of ships, &c., and there still remains a credit balance of Tls. 21,000 to be carried to next account. The dividend will be paid on the 15th of October, when shareholders are expected to attend with the necessary documents, either at the Head Office, or at the Branch Offices. It only remains to be added that in consequence of the badness of business last year, a dividend of only 5 per cent was declared which gave rise to much remark. On the present occasion, however, seeing that there is a surplus, a dividend of 10 per cent is declared.

THE ANNUAL REPORT OF THE CHINA MERCHANTS' STEAMER COMPANY.

(Specially translated for the "Shanghai Mercury.")

The sixth annual account of the C. M. S. N. Co. 1879.

PRESENT CAPITAL	Tls.	m.c.c.
Amount from Shareholders	800,600.0.0.0	
" of Mandarin Loan	1,928,868.3.2.3	
Reserve for Insurance	582,632.1.9.1	
Loans from Messrs. Russell & Co. ..	260,000.0.0.0	
" " Private individuals	624,087.5.4.1	
Insurance Fund	97,906.4.5.0	
Miscellaneous reserve Fund	21,133.2.6.0	
Total Capital Tls.	4,315,227.7.6.5	
RESOURCES TO BE DEDUCTED FROM THE CAPITAL.		
Uncollected Freight	253,041.0.3.0	
Coals.—Stocks on hand	56,232.3.7.9	
Miscellaneous articles. Stock on hand	20,754.3.5.6	
Total Tls.	330,027.7.6.5	
Leaving a balance of Tls.	3,985,200	
STOCK ACCOUNT.		
Value of 29 steamers	2,561,400.0.0.0	
Wharves and Godowns	1,083,800.0.0.0	
Tow-boats Iron and wood	180,000.0.0.0	
Sundries—Stock	160,000.0.0.0	
Total value of stock Tls.	3,985,200	
SUNDRY RESOURCES.		
Rents collected from Godowns, houses &c.....	58,268.8.0.6	
Excess of "Repairing" fund	702,607.4.5.3	
Miscellaneous	108,333.7.4.3	
	869,210.0.0.2	
LIABILITIES.		
Repairs to Godowns	21,937,0.1.2	
Office & Godown Expences	39,908.5.2.1	
Towboat Expenses.....	25,238.6.5.6	
Official Taxes	15,444.0.0.0	
Total Tls.	102,528,1.8.9	
Deducted from Sundry resources Leaving Balance.....	766,681,8.1.3	
SHARE HOLDER'S ACCOUNT.		
Interest on Capital	238,595,6.7.2	
" " Mandarin Loans	76,254,9.1.8	
" " Miscellaneous	428,580,7.4.6	
Total Tls.	743,431,3.3.6	
Balance on hand for the current year 1879	23,250,4.7.7	
Balance on hand for last year, 1878....	37,123,4.4.4	
Deterioration in value of stock	19,988,7.1.0	
Famine Subscription	19,251,9.5.1	
Balance on hand in Cash for the Current Year	21,133,2.6.0	

E. & O. E.

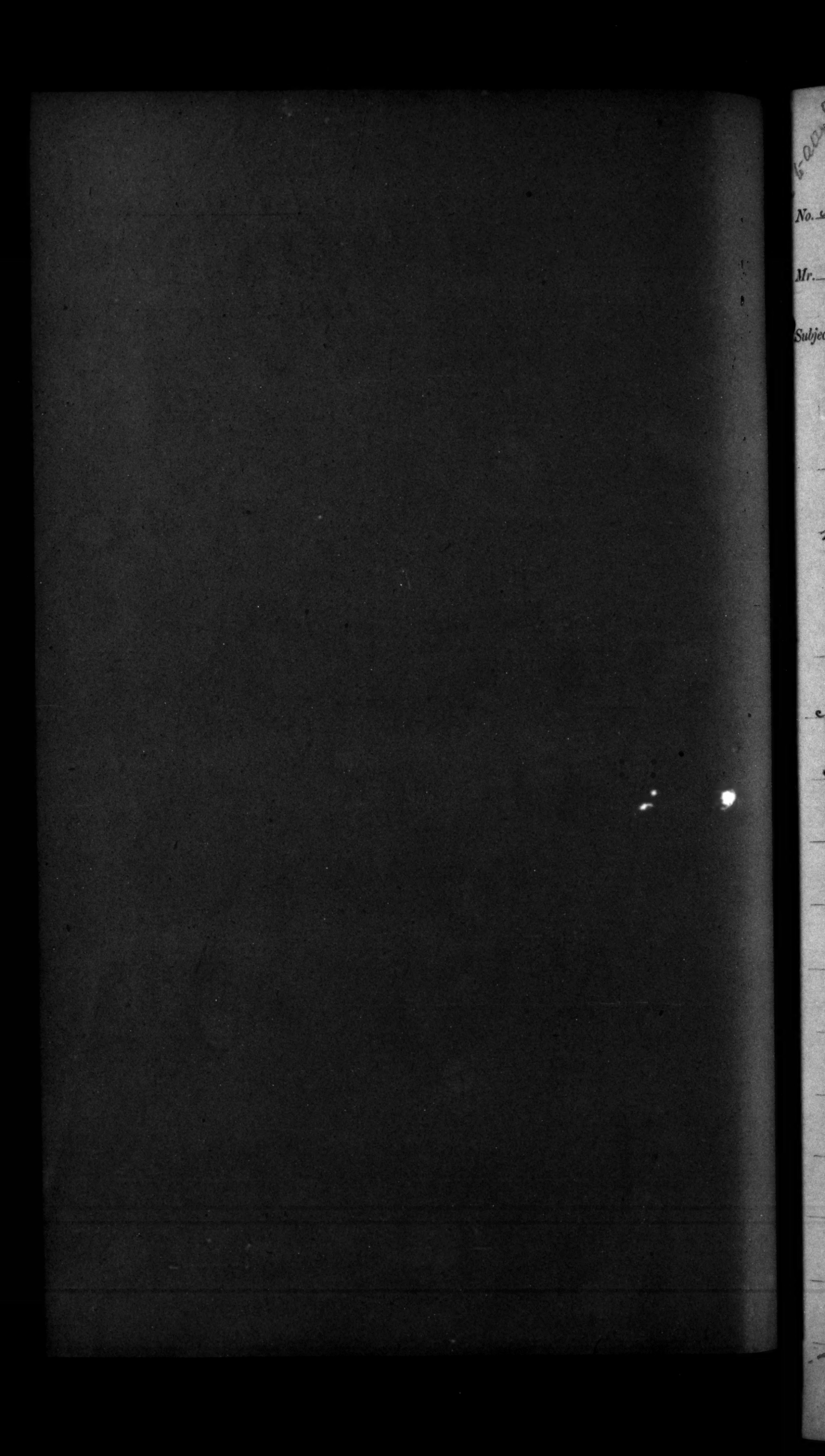
17th August 1879.

Shanghai China

Inclosure with

Despatch No.

Copy in French of
Annual report of
China Merchants'
Steam Navigation
Company for year
1878-1879



To be submitted to the Secretary of State Wood

No. 33] 19 September 1879 United States Consulate General at Shanghai,

Mr. Bailey Consul General. to the State Department, File

Subject:— Petition for Execution of Sentence.

Original Enclosures (3) sent to Attorney General with Report dated Oct 14/80 (Copies in Miscl Letters)

DEPT OF STATE NOV 1879

ABSTRACT OF CONTENTS.

Forwards Petition of Charles Wilson for pardon, with approval.

Inclosures

No 1. Petition to the President

No 2. Copy of Petition to Judge of Consular Court.

No 3. Copy in print of Judgment in case U. S. vs. Charles Wilson

No. 33.

United States Consulate General,

Shanghai, 19 September 1879

Hon. Charles Payson

Third Assistant Secretary of State,

Washington, D.C.

Sir,

I have the honor to enclose a Petition addressed to The President by one Charles Wilson, a prisoner in the jail of this Consulate General, who is undergoing a sentence of imprisonment for eighteen months, in accordance with a judgment of the Court for this Consular district + rendered on the 22nd of November 1878, as will more fully appear by a printed copy of the judgment, extracted from the North China Herald of November 28th 1878, and herewith enclosed. Although the judgment was delivered ex tempore, +

without

without first reducing it to writing, yet it contains all the essential facts in the case as developed in the trial.

Wilson has now served out ten months of his time, and should his petition for pardon be granted by The President he will then have been + incarcerated for over thirteen months before he can be liberated.

His conduct since his imprisonment has been most exemplary. The crime was committed while he was partially crazed by the vilest of liquor, a poisonous + sort of compound. When sober he is a bright young man, quiet, orderly and industrious, as was shown by the testimony of the Master of the Ship, Captain Joshua Freeman.

Should he be pardoned, I believe the

the ends of justice will have been +
substantially served when the pardon
takes effect. Therefore I cordially +
recommend him to the clemency of the
President

I have the honor to be,

Sir,

Your Obedient Servant

Saml L. Bell

Consul General

Copy Petition

To his Excellency
The President of the United States
of America.

The petition of Charles Wilson,
now a prisoner in the United
States Consular Goal at Shang-
hai.

Humbly sheweth:-
That your petitioner came to
Shanghai as a seaman in
the ship "Gold Hunter" belong-
ing to the Port of Boston, in
the State of Massachusetts;
That on November 22nd 1878
your petitioner was convicted
of attempted manslaughter,
having been concerned in a
riot on board the above named
vessel, and sentenced to im-
prisonment for the term of
eighteen months, which pun-
ishment

ishment he is now undergoing:

That your petitioner is deeply sensible of and penitent for his offense, and believes that testimony will be borne both by the past and present officers of the Gaol to his good conduct as a prisoner while under their charge;

While making no complaint against the justice of his punishment, Your petitioner therefore humbly prays, that if it be possible, some mitigation of his sentence may be granted unto him, in the remission of a part of so much of the term of his imprisonment as yet remains unexpired.

Should any such mercy be extended to him, your petitioner promises immediately to seek such employment

as

as would necessitate his removal from the port of Shanghai.

And your petitioner will ever pray,

Charles Wilson

Memorandum: Having at his request assisted the prisoner Charles Wilson in drawing up this petition, I think it not amiss to add a word of personal recommendation.

Since the end of last year (1878) being permitted to visit the Gaol as a Christian minister, I have had continued opportunity of observing the conduct and spirit of Charles Wilson, and sincerely believing in his penitence, I would earnestly commend him as one in whose case the prerogative of mercy may perhaps be not unfitly exercised.

exercised.

E. Reeves Palmer M.A.
Minister of the Union Church
Shanghai.

U.S. Consulate General
Shanghai, China

Inclosure No 1
with
Dispatch No 33.

Petition of Charles Wilson
to the President for clemency.

Shanghai Sept. 20th, 1879

Copy

To the Honorable D N Baily
Consul General of the
United States of America
at Shanghai

The Petition of Charles Wilson, now a prisoner in the United States Consular Gaol at Shanghai.

Humbly sheweth.

That your petitioner came to Shanghai as a seaman in the ship "Gold Hunter" belonging to the port of Boston in the State of Massachusetts;

That on November 24th 1878 your petitioner was convicted of attempted manslaughter, having been concerned in a riot on board the above named vessel, and sentenced to imprisonment for the term of eighteen months, which punishment he is now undergo

ing

ing:

That your petitioner is deeply sinsible of and penitent for his offence, and believes that testimony will be borne both by the past and present officers of the Gaol to his good conduct as a prisoner while under their charge:

While making no complaint against the justice of his punishment, your petitioner therefore humbly prays that if it be possible, some mitigation of his sentence may be granted unto him, in the remission of a part of so much of the term of his imprisonment as yet remains unexpired.

Should any such mercy be extended to him, your petitioner promises immediately to seek such employment as would necessitate his removal

from

from the port of Shanghai.

And your petitioner will ever pray, &c.

Charles Wilson.

Memorandum:

Having at his request assisted the prisoner Charles Wilson in drawing us this petition, I think it not amiss to add a word of personal recommendation. Since the end of last year (1870), being permitted to visit the gaol as a Christian minister, I have had continued opportunity of observing the conduct and spirit of Charles Wilson, and sincerely believing in his penitence, I would earnestly commend him as one in whose case the prerogative of mercy may perhaps be not unfitly exercised

cised.

E. Reeves Palmer M.A.
Minister of Union Chapel
Shanghai

U.S. Consulate General
Shanghai, China

Inclosure No 2 with
Dispatch No 33.

Petition of Charles Wilson
to the Judge of Consular
Court for clemency.
July 18th. 1879

copy

United States Consulate-
General
Shanghai 22nd November

Before D.N. Bailey, Esq.,
U.S. Consul General; and
Dr Yates and Mr A. Fisher
Associates.

The Affray on board the
"Gold Hunter".

The complaints against the prisoners were investigated on the 19th instant, and today the prisoners were brought up for sentence.

The Court said— This case has been very much simplified by the plea of guilty entered by Wilson and Schultze as to all the charges preferred against them, and by the plea of guilty on the part of Green and Plought as to the second count of inciting and stirring up riot; so that practically there

is

is very little to be done except to pass sentence on the prisoners. The law governing the case is laid down in the Revised Statutes of the United States, sections 5,342, 5346 and 5359.

The 5342nd section says:- Every person who within any of the places or upon any of the waters described in section 5.339- (this section gives the jurisdiction) attempts to commit the crime of murder or manslaughter, by any means not constituting the offense of assault with a dangerous weapon shall be punished by imprisonment, with or without hard labor, not more than three years, and by a fine not more than $1000.

The 5.346th Section says;- Every person who, upon the High Seas, or in any arm of the sea, or in any river, ha-

ven

ven, creek, basin or bay, with-
in the Admiralty jurisdiction
of the United States, and out
of the jurisdiction of any
particular State, on board
any vessel belonging in
whole or part to the United
States, or any citizen thereof,
with a dangerous weapon,
or with intent to perpetrate
any felony, commits an as-
sault on another, shall be
punished by a fine of not
more than $3,000, and by
imprisonment at hard labor
not more than three years.
Section 5359 provides:- If
anyone of the crew of an
American vessel on the high
seas, or other waters within
the Admiralty and mari-
time jurisdiction of the Uni-
ted States, endeavor to make
a revolt or mutiny on board
of

of such vessel, or combines, conspires, or confederates with any other person on board to make such revolt or mutiny; or solicits, incites, or stirs up any other of the crew to disobey or resist the lawful orders of the master or other officer of such vessel, or to refuse or neglect their proper duty on board thereof, or to betray their proper trust, or assembles with others in a tumultuous and mutinous manner, or makes a riot on board thereof, or unlawfully confines the master or other commanding officer thereof, he shall be punished by a fine of not more than $1000, or by imprisonment not more than 5 years or by both fine and imprisonment. That is the law of the case, and it

it appears from it that the full extent of the sentence in the case of Wilson would be eleven years imprisonment besides a very considerable fine. The prisoner Wilson pleads as extenuating circumstances that he was drunk upon this occasion and did not know what he was doing; and that therefore he should be largely excused for what he did. Now the evidence shows clearly I think that he was under the influence of liquor, that he had been drinking considerably; and no doubt this vile stuff, called drink, which is to be obtained about Shanghai for $1.50 a dozen, and for the suppression of which there ought to be some remedy, had a great

great deal to do with the affray. No doubt Wilson had been drinking this sort of liquor, and was very excited, for it is in evidence that he engaged in a row in the street before going on board, but the testimony clearly shows, I think, that when he was on board and engaged in the commission of these crimes, that he knew well what he was doing. But there is also no doubt in our minds that he was greatly excited in consequence of the liquor he had been drinking - the liquor stimulated him to do things which otherwise I do not suppose he would have done, because the Captain's testimony in his behalf is favorable, and goes to show that he was an orderly man.

Another

Another point is that there appears to be none of the ingredients of malice in the case – there does not appear to have been any deliberate plan formed for this difficulty, it does not seem that there was any particular concert of action, no arrangement beforehand by which this row was to be brought about, so that there is no evidence of mutiny in the case.

The whole thing arose out of a sudden ebullition of passion engendered by the collision the prisoners had on shore with the police, and by the liquor they had been drinking. They fell into the difficulty suddenly and the question is – How should they be treated? If the evidence had shown that

the

the row had been planned beforehand by the prisoners, that there had been concert of action, a kind of conspiracy, it would have been a much graver offence than it is now. It is grave enough anyhow, and the man Wilson should reflect how near he came to stand before this Court, on the trial for murder instead of an attempt to commit manslaughter. I am not familiar with scientific questions of surgery and anatomy, but I believe there is not much doubt that if the ball that was undoubtedly fired by Wilson and struck Bamston, had deflected a little one side or the other - perhaps an inch or half an inch either to the left or right, - it would have cut

the

the femoral artery, and would have resulted in almost immediate death, so that you, Nilson, barely escaped by half an inch in the direction of the ball, from standing in this Court charged with murder, for which possibly you might have had to suffer on the gallows. It shows how such recklessness may bring men into the most serious positions that occur in life. Nilson brandished his pistol about, firing indiscriminately here and there, and he fired not once or twice, but constantly and in particular directions. The evidence clearly shows that he fired where it could take effect, and he fired not only against the police

lice, but at his command-
ing officer, in the direction
of the cabin where the Cap-
tain and his wife were.

I can scarcely conceive
such dangerous reckless-
ness, but fortunately the
evidence does not show that
there was any premedita-
tion or malice. Questions
might have arisen in the
case of a very different
character to those which
have now to be disposed of
— very grave questions too —
which under the circumstan-
ces; it is fortunately not ne-
cessary to consider at any
length now. One of the ques-
tions that might have aris-
en was, as to whether the
police had authority to
be on board without a war-
rant. It is clear they were

on

on board with the permission of the Captain, who is an officer of the peace on his vessel, made so by the laws; and it is clear they were there in the interests of peace and harmony. A riot was going on, a breach of the peace had been committed in the street, and the police were in search of the offenders to procure them, and make them answer for their conduct at the proper place. The police were on board by the permission of the Captain; they were there under his orders as a sort of posse comitatus, and in that sense their legal status is not in question now. Under other aspects of the case the captain's action might have been

been called in question, but all the evidence shows that he was acting with the best motives; he was acting in the interests of peace, and with the view of bringing offenders to justice, who had committed a breach of the peace on shore, and were creating a disturbance on board his ship - he was acting as an officer of the peace who had a right to command peace on board his ship. But it is not necessary to go into these questions much further. Drunkenness is not an excuse for crime, but where there is such a condition of drunkenness as to make a man really incapable, unconscious of what he is doing, perhaps then it ought to be taken into

into consideration, and have considerable weight with a Court and Jury. The question occurs as to the extent of punishment that shall be inflicted upon the man Wilson. He was undoubtedly the ringleader; he forwarded the whole difficulty. It is shown by the testimony that he went so far as to compel the other men to go into the row; it is in evidence that he brandished his pistol about in the forecastle, that he even put it in the face of one of the men, and there is not the least doubt that he was the spirit and main cause of the whole trouble. But the Court does not think it necessary to enforce all the penalty as against him. We do not think

think the vindication of the law requires that he should serve a sentence of eleven years' imprisonment, but we do think that he should serve a sentence which he will remember, and which will be an example to others to deter them from such recklessness and gross indifference to life.

As to the man Schultze, he pleads guilty both to assaulting with a dangerous weapon and to joining in the riot. It is not fixed upon him very clearly in the evidence that he used a dangerous weapon to any extent, and certainly he had no such weapon as a pistol; and it does not appear anywhere in the evidence that he was the man who fermented the row, who brought it

it as it were to a head. Wilson was the man who kept it alive, he was the central figure of the whole affair, the other men being compelled by his conduct to act with him.

The next case is that of the man Green who pleads guilty to the second count of joining in the general revolt, but denies the first count of striking anybody with a dangerous weapon. We have carefully gone through the evidence and have come to the conclusion that there is not sufficient proof that he did use a dangerous weapon towards anybody.

As to the other man, Thomas Plought, he also pleads guilty to the second count of the complaint but denies the

first

first. There is an approximation towards fixing upon him the striking of Constable Thistle with a slung shot, but it is a well settled principle of criminal law that where there is a reasonable doubt, the prisoner is entitled to the benefit of it; and we do not think it is sufficiently shown by the evidence that he did strike Constable Thistle with a slung shot. Thistle fails to recognize the prisoner himself; the nearest approach to any recognition of him is the evidence of the witness Brennan, who saw him mixing in the row at the time Thistle was struck, but Brennan's testimony has to be taken with grains of allowance, because it seems

seems clear that he had a difficulty with Plought a short time before this occurrence, and he had another difficulty with him the same night in the forecastle. Besides it is in evidence that the night was dark, and he was standing just outside the forecastle, while the melee was going on at the break of the poop, which is, according to Captain Freeman's own evidence, a distance of about one hundred and twenty feet; and, therefore it is quite within the bounds of possibility that he could not recognize all the different persons who were engaged in the row at the time. There is now nothing left to be done, but to pass sentence.

The

The prisoner Charles Wilson was then sentenced as follows:- Having heard and tried the complaint filed by Joshua Freeman on the 18th day of November 1875, I find you, Charles Wilson, guilty of the offence wherewith you are charged, and I adjudge and sentence you therefore to imprisonment for the term of eighteen months from this day, in the prison for American convicts at Shanghai.

In the same terms William Schultze was sentenced to nine months imprisonment, Thomas Plought to four months imprisonment, and Edward Green to three months imprisonment. In regard to the last two prisoners the sentence specified that they

they were sentenced on the second count of the complaint.

U.S. Consulate Genl
Shanghai China

Inclosure No 3 with
Dispatch, No 33.

Copy of
Printed copy of Judgments in case of
United States vs Charles Wilson
Dec. 20. 1878.

Mr Cummets

No. 34.] 30 Sept 1879 United States Consulate General at Shanghai,

Mr. Bailey Consul General, to the State Department,

Subject:— Despatches Nos 15 and 16. August 7th 1879

Ack'd Nov 6/79.

ABSTRACT OF CONTENTS.

acknowledges receipt of Nos 15 & 16.

No. 34

United States Consulate General,

Shanghai, 30. September 1879

Hon. Charles Payson

Third Assistant Secretary of State,

Washington, D.C.

Sir,

I have the honor to acknowledge the receipt of Department despatches Numbers 15 and 16 both bearing date August 7th 1879.

The copy of the "Foreign Relations for 1871" mentioned in No 15. has been received, and placed among the archives of this Consulate General.

I have the honor to be,

Sir

Your Obedient Servant

Emil Sauer

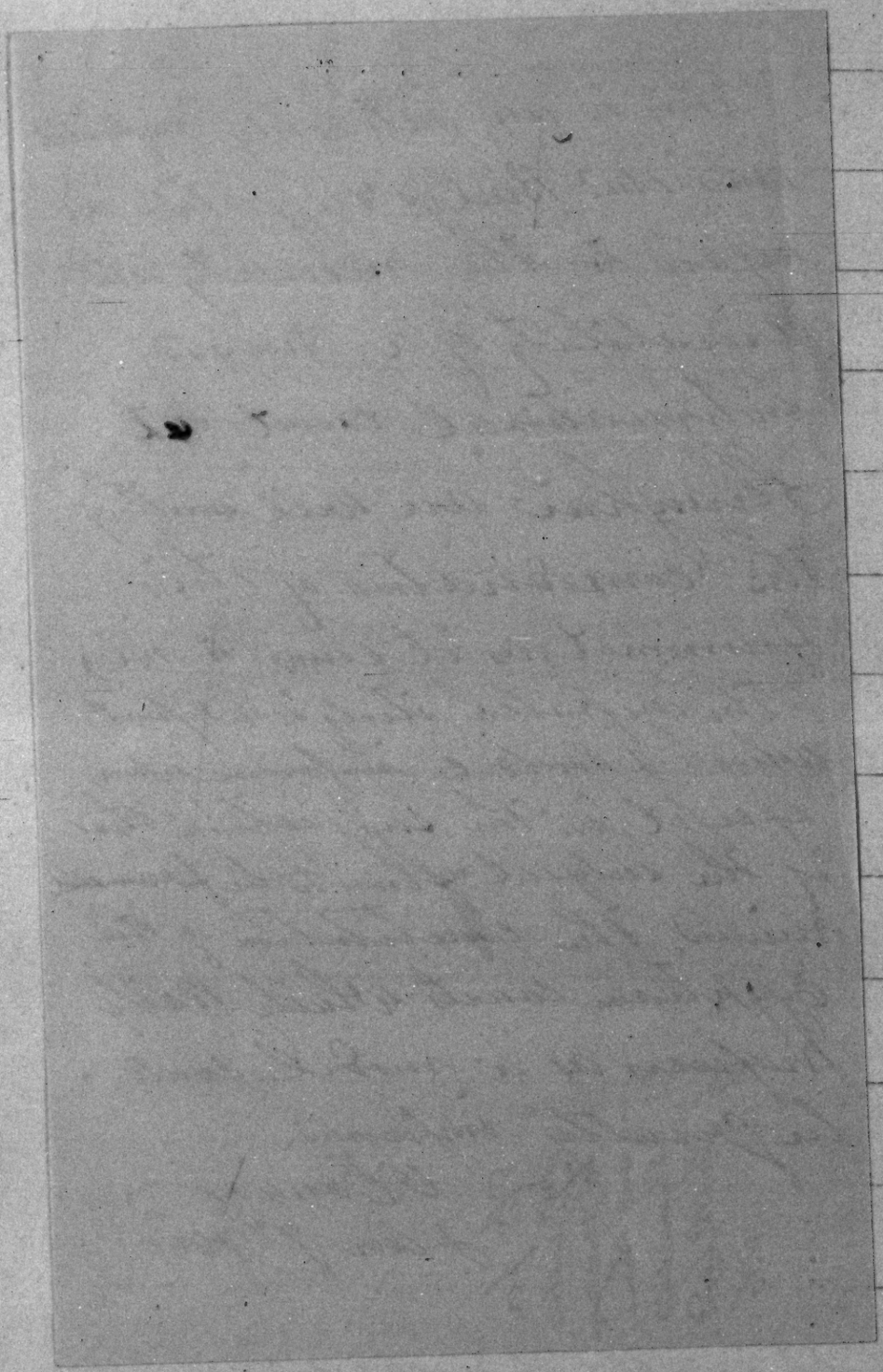
Consul General

This is an interesting dispatch and Mr. Baily's suggestion in regard to the necessity and desirability of a mixed international court at Shanghai are well worthy the consideration of this Government (as it seems to me) The dispatch itself is a report which I cannot improve upon except in the suggestion that if the subject should be favorably viewed the constitution of the Egyptian courts which Baily proposes as a model could be generally improved.

Chas. Denby

Jan 7 1880

Enclosure to Mr. Denby's No. 1880 of Jan 7 1880



Mr. O'Connor C.R. Acknd Nov 6 1879 Mr Wood

No. 35] 30 Sept 1879 United States Consulate General at Shanghai,

Mr. Bailey Consul General. to the State Department,

Subject:— Mixed-Courts in China

DEPT OF STATE NOV 4 1879 RECEIVED

ABSTRACT OF CONTENTS.

Transmits copy of despatch No 706. to Minister Seward at Peking.

Inclosure

No 1. Copy of despatch No 706 to Legation at Peking.

No 2. Memo: of Questions by Mr Seward.

No. 35

United States Consulate General,

Shanghai, 30 September 1879

Hon. Charles Payson

Third Assistant Secretary of State,

Washington, D.C.

Sir,

I have the honor to enclose a copy of a despatch No 706, of the 15th instant, to Minister Seward in Peking in answer to certain queries addressed by him to myself, as well as to the other Consuls of our Service in China, concerning Mixed-Courts, and general questions of jurisprudence which obtain in practice between our people and Chinese subjects in Controversies requiring adjudication.

I forward the enclosure for the

the purpose of informing the Department, as I think it should be informed, of the general course of procedure, and of the rule of law, which, in my opinion, should be observed, under the Treaty, within the jurisdiction of this Consulate.

Should Mr Seward report upon the Subject, as I apprehend he will, no doubt his views from his long experience in China and known ability will be much more full and reliable than mine.

I have the honor to be

Sir

Your Obedient Servant

Frank H Bailey

Consul General

Copy

No 706. United States Consulate General

Shanghai 15. September 1879.

Hon: George F. Seward.

E. E. and M. P. to China

Peking

Sir,

I have the honor to acknowledge the receipt of your despatch No 174, bearing date July 26th, propounding certain questions to be answered at my earliest convenience.

In compliance with your request I remark first, that the entire staff of this Consulate having been changed since I assumed charge I am not at present fully advised as to the former practice under query "A"

Since my incumbency, civil cases by the Chinese against our people

people have been tried in the Court for this Consular District, the Consul General sitting alone as Judge. Similar Cases by our people against Chinese subjects have been tried in the mixed Court of the Foreign Settlements, presided over by the Chinese magistrate Chên Fu-hsün and the United States Interpreter acting as American Assessor. No cases involving exceptional difficulties have occurred in either Court, except that of Lao-Ting-Kwan, a chinese subject, against the Estate of the late Edwin Maurice Smith, a citizen of the United States. This was an action brought for a considerable sum of Money, and was decided purely upon a question of

of law. The cases thus far disposed of in the Mixed Court of Shanghai by the Magistrate Chen and the United States Assessor have been reasonably satisfactory to all parties concerned. Should cases arise involving important questions or considerable interests, which could not be amicably settled between our people and the Chinese, upon a demand made by the proper officer of either nationality I apprehend that a joint Court would be organized in accordance with the treaty, and presided over by the Consul and the Intendant of Circuit, sitting with equal powers, to decide + "conformably to justice and equity". That a decision in such a case by

by the public officers of the two
Nations acting in conjunction
is to be the decision of a joint
Court appears to be made clear
by Art: XXVIII. of the Treaty of 1858.
Article XXIV. of the same treaty
provides that Chinese Subjects
having claims against citizens
of the United States may seek
redress by representation through
the Consul, or by suit in the
Consular Courts. The plaintiff
may elect which remedy he
will pursue. Should he elect
to proceed by suit in the Consular
Court, in my opinion, he is
bound to accept that forum
as to its organization, its law,
and its decrees, subject only to
appeal

appeal to the United States appellate Courts at Peking or California, in accordance with the jurisdiction provided for by Statute.

Subject to these remarks it may be said that in Shanghai there are two Mixed Courts, the Higher and the Lower. The latter is held by a chinese magistrate and the United States Assessor appointed by the Consul General to act for him.

The former is held by the Consul General and the Intendant of Circuit for the Soo, Sung and Tai jurisdiction, and is either a Court of appeal from the Lower Court or for the hearing of Cases that have never passed through the Lower Court.

Court. I now proceed to answer the remaining interrogatories in the order in which they are named.

Int: "B" - Ans^{r}: A Subprefect in the Lower Court, and the Intendant of Circuit for the Soo, Sung and Tai Jurisdiction in the Higher Court.

Int: "C" - Ans^{r}: - Yes

Int: "D" - Ans^{r}: - The Consul General attends in the Higher Court only, he appointing the Consular Interpreter to act for him in the Lower Court. The Consul General sits on the right of the Intendant of Circuit and acts as one of the Judges.

Int: "E" - Ans^{r}: - The Consul General attends in the Higher Court only, the position of the Consular Interpreter being to his right.

Int: "F":- Ans:- In the Lower Court the Magistrates' Clerk of the Court keeps a record of the pleadings and proceedings, the assessor also keeping a record in the English language of the proceedings. In the Higher Court, the clerk of the Consular Court keeps a record of the pleadings and proceedings, the Secretary of the Intendant of Circuit also keeping a record in the Chinese language.

Int: "G":- Ans:- Records are kept as shown under "F".

The position of the Native writer of the Consular Interpreter is to the right of the Interpreter.

Int: "H":- Ans:- The records are kept both in English and Chinese.

They.

They are satisfied to in neither language, so far as I know.

Int: "I": Ans^r:- Appeals from the decision of the Native Magistrate in the Lower Court go to the Higher Court, and appeals thence to the United States Minister and the Tsung-li-Yamên.

Int: "J":- Ans^r:- In the Lower Court a "Tsung-chih", or Sub-prefect, acts; and in the Higher, the Intendant of Circuit for the Soo, Sung and Tai jurisdiction.

Int: "K":- Ans^r:- The position assigned to the Consul General is to the right of the Intendant of Circuit, the Consular Interpreter sitting to the right of the Consul General, the native writer to the right of the Consular Interpreter, and

and the clerk of the Consular Court would be the subject of arrangement.

Inst: "E".- Ans.r :- The records of the proceedings are kept as shown in "F."

Inst: "N."- Ans.r :- The only law prescribed by the treaty in such Courts is that cases shall be "examined and decided conformably to Justice and equity".-

I understand these words, as applied to a joint Court, to be used in the treaty in their generic sense, and not in their technical sense as a legal distinction descriptive of our + Common Law and Equity Courts and their refinements of rules and principles. It was intended by the framers of the treaty, I apprehend, that the Judges of this joint Court should travel on the broad

broad, palpable highway of justice
and Equity in that large view which
finds and administers the right.
To prescribe the absolute law of
either Country in such a Court
would almost surely lead to a
disagreement of the Judges in
every case and make the Court
simply a nullity. There are certain
fundamental principles in our System
which we could never yield, and
perhaps the same may be said
of the Chinese System, and where
the decision of a case depended
upon giving away such a principle,
on either side, Diplomacy must
endeavor to adjust what the Judges
cannot reconcile. But it is reasonable
to suppose that if the Judges of this
Court

joint Court are actuated by enlarged and liberal views of justice and Equity, not simply as abstract principles, but essential Agencies in adjusting the affairs of men and nations. the rule provided for by the treaty is not only to be observed as the law binding upon the Court, but it is safe and ample for the administration of the usual Course of justice. +

But this presupposes a habit of thought of that high order which is rarely found in Chinese judges. Nevertheless if justice and equity + within the meaning of the treaty be approximately observed there is a prescribed rule which may be said to be the law recognized and binding upon the Court.

Int. N.

Art. "N" - Ans^{r} :- The mode of enforcing a judgement against a Citizen of the United States would be the same as in the Court for this Consulate, but as against a Chinese subject it is difficult if not impracticable to define a rule. The enforcement of such a judgment would depend more upon the good faith of the Chinese Co-Judge and his subordinate officers and Underlings than upon regular, defined and exact proceedings whereby judgments of Courts are satisfied. Supposing a judgement agreed upon between the two officers constituting the Court it might not unfrequently happen that the foreign plaintiff would be as far from

plaintiff having his claim satisfied as before he began his proceedings, although it should be clear that the defendant had the means to satisfy it. The situation would then be so anomalous as that one of the judges of the Court would feel compelled to bring no inconsiderable pressure to bear on his brother-judge to secure the enforcement of their joint judgment.

Int: "O". - Answr: - The modes of appeal is shown under "I".

Int "P". - Answer: - With the other Consulates at Shanghai the practice is in general understood to be the same as in ours, at least so far as any practice has arisen.

St

It is to be observed, however, that only three foreign assessors sit in the Mixed Court, viz: the British, American and Austrian, the British assessor sitting three days in each week, the American two days, and the Austrian one. The Interpreter of the German Consulate General sits sometimes in the absence of either of the assessors named.

There seems to be an exception, however, in the practice of the British Consulate so far as the Higher Court is concerned. By the 35th Section of H.B.M's order in Council for the government of Her Majesty's subjects in China all jurisdiction civil and criminal

criminal law and within the district of the Consulate of Shanghai is vested in H. B. M's Supreme Court for China and Japan. The British Consul it appears therefore does not assume or exercise judicial authority in conjunction with the Intendant of Circuit — Had such functions are exercised by the British Vice Consul as Assessor in the ± Lower Mixed Court I am not advised.

In a recent case, reported in the Shanghai newspapers September 3d, wherein T. W. Duff and D. M. Davids, ± British Subjects, were ± plaintiffs and the Committee of

of the Swatow Opium Guild, Chinese Subjects, were defendants, the Intendant of Circuit sat as Judge in the Courtroom of the Lower Mixed Court, the British Consul being present on the Bench, but declared in open Court that he appeared only as Consul to watch British Interests, and that the British Vice Consul, who sat on the right of the Taotai, was there in his ± ordinary Capacity as assessor; that Chen, the Subprefect, ± practically was also sitting in his ordinary Capacity as magistrate of the Court, but that "the chief officer was His Excellency the Taotai," who was sitting to

decide

decide the case. The proceedings had been pending for quite a while, and it is to be presumed that the organization of the Court was well considered before it convened.

Pertinent to these questions concerning Mixed Courts, and indeed the whole system of jurisprudence for the Settlement of Shanghai, is the subject of an International Court, to which I beg especially to draw your attention.

The multiplicity of Courts established in Shanghai may be fairly said to constitute the most cumbersome system of judicature known to exist in

in any considerable commercial
centre in the world.

The importance of Shanghai in
its trade? mercantile
its tradal relations, the extent
of its Commerce, the various &
Conflicting interests, the enormous
foreign Capital centred here, the
large foreign population; the
fact that the Settlements are
introducing Western civilization
into China and therefore the education
which China is to receive through
Shanghai all make it exceedingly
desirable that there should be a
Court with full powers, having
Original and exclusive jurisdiction,
Civil and Criminal, over all
persons and property within the
limits of the several foreign &
Settlements.

Settlements of Shanghai. +
This should be an international
court, similar perhaps, to the
one organized in Egypt January
1st 1875, in pursuance of a
special Convention entered into
between the seven great powers.
Such a judicatory must be
instituted by the joint action
of all the Powers, for a tribunal
established by any one nation cannot
answer the requirements of all.
The effect of such a court upon
the Chinese system would, +
no doubt, in time be vast and
beneficial in the highest degree,
for through Chinese judges who
would constitute a part of
the judicial organization, the

educational

educational process would be going on. This judicial system to be effective must necessarily be based upon a code, assimilating to the "Code Egyptien", the Code Napoleon, or perhaps the Indian Code would be more suitable, but these are subsidiary questions which would grow naturally out of the major proposition, viz: that there shall be an international Court. The tribunal once fairly established, the friction which now exists between the disjointed Courts of Shanghai, often resulting in the defeat of justice, would disappear, and instead there would be a harmonious system with ample

powers

powers to adjudicate and enforce by the fixed and enlightened rules of a modern code all questions of life, liberty, property and demands arising between citizens and subjects of the different Nationalities within the territorial limits of the settlements.

Such a court must come sooner or later, and, in my opinion, they who identify themselves with its creation will confer a benefit on this people which shall not fail to endure; for, may we not reasonably anticipate that that system, that benefit, would widen and widen until it embraces the Empire?

I append

a

a synopsis at some of the salient features of the International Court of Egypt. extracted from a memorandum prepared and sent to Judge Folger by Judge George S. Batchelder, late of Saratoga Springs, one of the Judges of the International Court (see enclosure).

I have the honor to be,

Sir,

Your Obedient Servant

sig^d David H. Bailey.

Consul General.

omit

Memo of Questions

asked by Mr George F Seward Peking.

A. What is the practice of your Consulate in civil cases arising, between Chinese and our people? Are such cases tried by the officer of the defendant or by the Consul and a native officer sitting as a Mixed Court?

B. If by the officer of the defendant, what native official sits for the trial in cases where a Chinese is the defendant?

C. Are the Courts so held open for the # personal appearance of the plaintiff and of his witnesses?

D. Does the Consul attend, and if so # what position is given him as to seat etc., and what part does he take in the proceedings?

E. If the Consul attends does he take an Interpreter? If so what position is given to

to the Interpreter?

"F." Is a full and accurate record made of the pleadings and of the proceedings of the Court?

"G." If so by whom is the record made, and if by the native assistant of the foreign Interpreter, what position is assigned to him?

"H." Is the record made in English and Chinese? If so, how are such records or any which are made certified to?

"I." To what Court do appeals from the decision of the native officer lie?

"K." What positions are assigned to the Consul and those with him?

"L." If trials are in Mixed Courts what native officer acts?

"L." What records are made and how are they made?

"M." What law is taken as binding upon the

the Court.?

"N." How are judgments enforced ?

"O." To what Court do appeals lie ?

"P." Generally, is it the practice of other H. Consuls at your port to sit in Mixed Courts, or is the system of trial in the Court of the defendant preferred ?

"Q." Have you any opinion, as to which is the preferable procedure ? If so will you be so good as to state it as full as possible

Will you please add, any remarks on the general subject, which may appear H. appropriate to you.—

Inclosure No 2.
with
Despatch No.

Memo of Questions
asked by Mr. J. Seward Peking.

Rec'd Nov. 6/79 Wood

No. 36] 30 Sept 1879 United States Consulate General at Shanghai,

Mr. Bailey Consul General. to the State Department,

Subject:— Department Circular June 24th 1879.

ABSTRACT OF CONTENTS.

Acknowledges receipt and notes instructions of Contents.

No. 36.

United States Consulate General,

Shanghai, 20 September 1879

Hon. Charles Payson

Third Assistant Secretary of State,

Washington, D.C.

Sir,

I have the honor to acknowledge the receipt of Department Circular, without number, bearing date June 24th 1879, relating to the application made to the State Department by the President of the National Board of Health requesting the aid and cooperation of Consular Officers in making the weekly returns of that Board as complete and valuable as possible, and to assist the Board in carrying out the provisions

provisions of Section 4. of the act approved June 2d 1879, to prevent the introduction and spread of Contagious or infectious deseases into the United States.

The blanks alluded to have been received and the instructions carefully noted, and will be obeyed so far as practicable.

I have the honor to be

Sir,

Your Obedient Servant

[illegible]

Consul General.

Ack

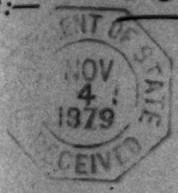
Ack Nov 6th 1879

Wood

No. 37.] 30 Sept 1879 United States Consulate General at Shanghai,

Mr. Bailey Consul General. to the State Department,

Subject:— Estate E. M. Smith, deceased.



ABSTRACT OF CONTENTS.

Transmits copy in print of Court proceedings in re the Estate of E. M. Smith, deceased.

Inclosures

Court proceedings in print.

No. 27.

United States Consulate General,

Shanghai, 30 September 1879.

Hon. Charles Payson

Third assistant Secretary of State,

Washington, D.C.

Sir,

I have the honor to enclose printed extracts from the "Shanghai Courier" showing certain proceedings had before the Court for this Consulate General in the matter of the Estate of Edwin Maurice Smith deceased.

It will be seen that the heirs-at-law, who reside in Philadelphia, have intervened and ask that the will of the deceased may be declared illegal and void. Mr Bisset, one of the Trustees named

named in the Will, and against + whom there was a decision by the Court for this Consulate on the 11th ultimo, + forwarded in my No 17, of the 12th ultimo, by which he was declared + indigible as such Trustee, now comes forward, by his Attorney, and asks for an adjournment, presumably to perfect an appeal, from the adverse decision, to the United States Circuit + Court for the district of California.

The heirs-at-law also asked for an adjournment to enable them to take testimony in America and England to show that the deceased at the time of making his Will was insane.

Under these circumstances it was thought proper and necessary to grant a

a continuance, and as all parties had agreed that four months would be requisite, and would be a + reasonable time, the hearing + upon these important issues has been fixed for the 2d day of February 1880.

The estate is still in the hands of the Receiver and is being managed, I am confident, with prudence and economy, with a view to conserve this valuable property.

I have the honor to be

Sir,

Your obedient Servant

David L. Bell

Canal General

UNITED STATES COURT FOR THE CONSULAR DISTRICT OF SHANGHAI.

September 17th.

Before D. H. Bailey, Esq., Consul-General, sitting as Judge.

IN THE MATTER OF THE ESTATE OF EDWIN MAURICE SMITH, DECEASED.

His Honour, on taking his seat, said that this was a petition filed by Francis Blackwell Forbes and Frederick Delano Hitch for the probate of the will of Edwin Maurice Smith, deceased, and for the issuance to them of letters testamentary.

The petition was as follows :—

The Petition of Francis Blackwell Forbes (commonly known as Frank Blackwell Forbes), and Frederic Delano Hitch humbly showeth :—

1.—That Edwin Maurice Smith, a citizen of the United States of America, late of Shanghai, in the Empire of China, but who at the time of making his last Will and Testament hereinafter mentioned was temporarily residing at the Charing Cross Hotel, in the County of Middlesex, in England, died on the 19th day of November, 1878, at Shanghai, aforesaid having made and duly executed his last Will and Testament, bearing date the 1st day of October, 1870.

2.—The said testator in his said Will appointed Thomas Hanbury and John Petrie Bisset, both of whom are subjects of Her Britannic Majesty and beyond the jurisdiction of this Court to be the Trustees and Executors of his said Will.

3.—By an instrument in writing under his hand and duly acknowledged, the said Thomas Hanbury did on the 4th day of March, 1879, declare that he had not intermeddled in the estate and effects of the said deceased, and would not hereafter meddle therein with intent to defraud creditors or otherwise, and did thereby renounce all his right, and title to the Probate and execution of the said Will and to all power, profit, right and authority granted to or conferred upon him by his appointment as an executor thereof.

4.—By a judgment delivered by this Court on the 11th day of August instant, the said John Petrie Bisset was by reason of his being an alien and beyond the jurisdiction of this Court declared to be incapable of being appointed and legally incompetent to act as such trustee and executor.

5.—The said Edwin Maurice Smith, deceased, was at the time of his death domiciled at Shanghai aforesaid, and died seized and possessed of a large amount of real and personal estate in Shanghai aforesaid the appraisers appointed by this Court having estimated the said real estate to be of the value of six hundred and twenty-five thousand Shanghai taels or thereabout, and the said personal estate to be of the value of thirty-one thousand Shanghai taels or thereabout.

6.—The beneficiaries under the said Will who are citizens of and resident in the United States of America have, by a Power of Attorney, dated the 31st day of May, 1879, and duly executed at New York, in the United States of America, appointed your Petitioners to be their and each of their attornies for the purpose of protecting their interests and enforcing their rights.

7.—The said Francis Blackwell Forbes (commonly known as Frank Blackwell Forbes) and Frederic Delano Hitch are citizens of the United States of America, and partners in the firm of Russell and Company, of China and Hongkong, and are now residing at and intend to continue to reside at Shanghai aforesaid, and they are willing to undertake the execution of the trusts of the said will on behalf of all persons beneficially interested therein.

8.—Your Petitioners are desirous that the said Will shall be admitted to probate and recorded in this Honorable Court that letters of Administration with the Will annexed be issued thereon to them, and that they shall be appointed trustees of the said Will.

Your Petitioners therefore pray that the said Will may be admitted to Probate and recorded that the letters of Administration with the Will annexed may be issued thereon to them accordingly, and that they may be appointed trustees of the said Will and your Petitioners will ever pray.

Mr. J. J. Henderson said he appeared there, instructed by the attorney of five of the next of kin and heirs-at-law of the deceased, residing in the United States, to oppose the granting of the probate of the will and letters of administration to Messrs. Forbes and Hitch, and their appointment as trustees. His objections to the petition of Messrs. Forbes and Hitch had been filed that morning. He had also to ask that a commission be issued to take the testimony of certain parties who were out of the jurisdiction of that Court, and whose evidence was of the greatest importance in the purposed contesting of this will; and that until that commission be returned that further proceedings in that Court in this matter be stayed.

The objections filed by Mr. Henderson were as follows :—

Debly Everly, Emily Pitcher, Belle Walker, Lizzie Walker, and Amanda Walker, next of kin and heirs at law of the deceased, of Philadelphia, Pennsylvania, in the United States of America, answering the petition of Francis Blackwell Forbes and Frederick Delano Hitch for the probate of an alleged will of Edwin Maurice Smith, so-called, deceased, and for the issuance to them, the petitioners, of letters of administration with said alleged will annexed, and for the appointment of the petitioners as trustess of the said alleged will, object to the probate of the said alleged will of said so-called Edwin Maurice Smith, and to the issuance to the petitioners of letters of administration with said alleged will annexed, and to the appointment of the petitioners as trustees of said alleged will or the estate of said deceased, on the grounds :—

1.—That as appears upon the face thereof the said alleged will is inconsistent, contradictory, and impossible of execution.

2.—That as appears upon the face thereof the said alleged will is uncertain and unintelligible in its provisions.

3.—That as appears upon the face thereof the said alleged will unlawfully tends to create an estate in perpetuity, and unlawfully infringes and violates the rule against perpetuities, and unlawfully creates an estate in perpetuity.

For further objection to the granting of said petition, they humbly show to this Honorable Court,

4.—That the true, lawful, and proper name of the person called Edwin Maurice Smith, in said petition, and who died at Shanghai on or about the 19th day of November, 1878, as alleged therein, was Edwin Maurice Pitcher, and that the name "Edwin Maurice Smith," by which the said deceased was latterly known, was a false and fictitious name, which the said deceased had unlawfully assumed, and that as appears upon the face thereof the said alleged will was executed, if at all, by said deceased, under and in such unlawful false and fictitious name.

5.—That said Edwin Maurice Pitcher, falsely called Edwin Maurice Smith, was never married, and died without lawful children.

6.—That they the aforesaid Debly Everly and Emily Pitcher are sisters of the said deceased, and that they the aforesaid Belle Walker, Lizzie Walker, and Amanda Walker are neices of the said deceased, and that they all are next of kin and heirs at law of the said deceased.

7.—That at the time said alleged will was made, the deceased was unsound of mind, memory, and understanding, and incapable of making a will.

8.—That the said alleged will unlawfully vests and attempts to vest the estate of the said deceased in persons legally incapable of taking and of holding it.

Wherefore the said Debly Everly, Emily Pitcher, Belle Walker, Lizzie Walker, and Amanda Walker pray this Honorable Court that said alleged will be declared illegal, null and void; that the petition of aid Francis Blackwell Forbes and Frederick Delano Hitch be dismissed, and that the estate of said Edwin Maurice Pitcher, falsely called Edwin Maurice Smith, be settled up and disposed of as the law in such cases directs.

Mr. Wainewright said he was instructed on behalf of Mr. John Petrie Bisset, one of the executors appointed under the will, to apply that nothing more may be done in the matter until he had time to send out instructions from England. On the 3rd September, Mr. Buchanan, who was the agent here for Mr. Bisset, telegraphed to the latter gentleman stating that Messrs. Forbes and Hitch, of Russell and Company had applied for letters of administration, and asking for immediate instructions as to whether they should oppose; on the 8th September they received a reply stating "Delay hearing impending further particulars." Upon those telegrams, which he had filed, he had to apply on Mr. Bisset's behalf, he being interested under the will, that the hearing might be suspended until Mr. Bisset had an opportunity to be heard in the matter. Mr. Buchanan was present, and could give evidence as to the telegrams.

His Honor said that an application for an adjournment should be based upon an affidavit, showing cause why an adjournment should take place.

Mr. Wainewright said he was not prepared with an affidavit, but one could be prepared and filed, if necessary, setting out the facts he had stated.

His Honor asked Mr. Henderson what was the nature of the objections he had filed.

Mr. Henderson said that they contested the will.

Mr. Drummond said he appeared there to support the petition which had been set down for hearing on that day; and in regard to the papers which Mr. Henderson had filed he might say that he enquired at 10 o'clock that morning if any papers had been filed in the matter in that Court, and he was told that none had been filed.

His Honor said that of course the hearing could not proceed upon the papers which had just been filed. The proper course would be for copies of the papers just filed to be served upon them; and the only remaining question was as to the date of the hearing.

Mr. Henderson said he understood that this was the day appointed for their coming there to make objections to granting of the probate of this will.

His Honor said that when papers were filed, copies of them must be of course be served upon the other parties, and they must have ample time for replying to them.

Mr. Drummond said that Mr. Henderson might have filed his objections much earlier, and copies of them could have been served on the parties, and they could have then proceeded with the hearing on that day. But the papers had been kept back and filed at the moment of hearing. The papers were filed too late to be of any use then. He (Mr. Drummond) desired to produce to the Court at this hearing certain documents in support of the petition; and then Mr. Henderson could make an application for adjourment to give him an opportunity of raising the objections to the application which he had filed.

Mr. Henderson contended that this was not the usual course of procedure, and he objected to its being adopted.

His Honor said that issue had not yet been joined in this matter, and he did not see the propriety of introducing testimony until that was the case. The hearing could be postponed for two or three days, as they might desire.

Mr. Drummond said it was time that the matter was put into proper order. However, all he asked at present was that he might be allowed to put in certain documents in formal proof of the petition.

His Honor said he thought issue should be joined first. He would have the papers served upon them at once, and they could fix an early day for the hearing.

Mr. Drummond said that prior to that he had to apply to be allowed to see the instructions and authority of Mr. Henderson to appear in opposition to the petition.

His Honor:—He must, of course, show his authority.

Mr. Henderson said his authority had been filed. Standing there he had no proof that the other parties had any right whatever there—that they were identified in any way with the will.

His Honor said there was the power of attorney.

Mr. Henderson said it was not under oath.

After some further remarks,

His Honor said there was the power of attorney filed by Mr. Forbes and Mr. Hitch, representing some of the beneficiaires; and there was also a power of attorney filed by Mr. Henderson on behalf of five persons representing themselves to be heirs of the deceased.

Mr. Henderson:—The greater number is on our side, for they have only 2¼.

Mr. Drummond:—Is there a power of attorney properly authenticated from the United States?

His Honor said there was no doubt about that. The documents could be inspected at any time.

Mr. Henderson said there were also specific instructions to contest the will on various grounds.

Mr. Drummond said he merely wanted to be satisfied, as they had the right to be, that Mr. Henderson was there to represent some one who had a substantial interest at stake in that matter; if so, he was on a proper footing.

His Honor said that if Mr. Drummond doubted the authenticity of the documents he could raise the question.

In reply to further questions from Mr. Drummond, His Honor said that if questions of fact were involved in the matter it would have to be tried by assessors and himself, but if only questions of law were involved, it would be tried by the Court alone.

Mr. Henderson said there were both questions of law and of fact.

His Honor: In that case it would be necessary to try it with assessors.

After some further discussion the hearing was adjourned for a week.

UNITED STATES COURT FOR THE CONSULAR DISTRICT OF SHANGHAI.

September 24th.

Before D. H. Bailey, Esq., Consul General, sitting as Judge.

IN THE MATTER OF THE ESTATE OF EDWIN MAURICE SMITH, DECEASED.

His Honor, on taking his seat, said that this case was the petition, filed by Messrs. Forbes and Hitch, for the probate of the will of Edwin Maurice Smith, deceased, and for the issuance to them of letters testamentary. There were two motions filed, one for a commission to take testimony *de bene esse*, and the other for the adjournment of the hearing of the petition, filed by Mr. Wainewright as counsel for Mr. Bisset. Mr. Wainewright's motion asked that the hearing might be postponed until the 30th November next.

Mr. Drummond appear for the petitioners.

Mr. Wainewright appeared for Mr. J. P. Bisset, one of the executors appointed under the will.

Mr. J. J. Henderson appeared for five of the next of kin and heirs at law of the deceased, residing in the United States, objecting to the granting of the prayer of the petitioners.

The following affidavit of Mr. James Buchanan had been filed by Mr. Wainewright:—

"James Buchanan, of Shanghai, in the Empire of China, Share Broker and Land Agent, being duly sworn, says:—

"1.—That he is the agent in Shanghai of John Petrie Bisset, one of the trustees and executors named in and appointed by the above-mentioned Will of the abovenamed Edwin Maurice Smith, deceased, and that in conjunction with Robert Ernest Wainewright, the Attorney and counsel of the said John Petrie Bisset, and subject to the directions and instructions of the said John Petrie Bisset, he has the management and control in Shanghai of the transactions of the said John Petrie Bisset, in relation to the estate and affairs of the said deceased.

"2.—That on the twelfth day of August last, being the day next following the delivery of the judgment and opinion of this Honorable Court in the matter of the petition of the said John Petrie Bisset, praying that the said will of the said deceased might be admitted to probate, and that letters testamentary might be issued thereon to him the said John Petrie Bisset, he this deponent sent or caused to be sent to the said John Petrie Bisset by telegraph a message apprising him of the effect of the said judgment and opinion, and on the same day sent or caused to be sent to him by post a printed report of the said judgment and opinion.

"3.—That on the third day of September instant he, this deponent, sent or caused to be sent by telegraph to the said John Petrie Bisset the following message, namely, "F. B. Forbes (of Russell & Co.) has applied for letters of administration read as follows by A. B. C. Code—shall we oppose; send instructions forthwith"—to which said message he this deponent received on the eighth day of September instant the following message in reply, namely: "Delay hearing pending further particulars.

"4.—That in obedience to the direction contained in the said last-mentioned massage he this deponent has this day caused to be filed in this Honorable Court a motion that the consideration of the above-mentioned Petition of the said Francis Blackwell Forbes and Frederic Delano Hitch may stand over until a date not earlier than the Thirtieth day of November next, such last-mentioned date affording in the opinion of this deponent and according to the course of post a reasonable time for enabling him to receive instructions from the said John Petrie Bisset in the matter of the said last-mentioned Petition.

"5.—That as this deponent is informed and verily believes the said John Petrie Bisset is in communication with and is acting in concert with such of the legatees under the said will of the said Edwin Maurice Smith, deceased, as are resident in Europe, and that it is of importance in the interest of such legatees that opportunity should be afforded before any further steps in this matter are taken for their views and wishes to be made known to the representatives of the said John Petrie Bisset in Shanghai."

Mr. Henderson asked if any pleadings had been filed since the last hearing on behalf of the petitioners that would affect the issue.

Mr. Drummond said that no such pleadings had been filed, and there was no issue joined.

After some remarks as to procedure,

His Honor said he thought the question of adjournment was the proper one to be considered first. Mr. Wainewright, who represented Mr. Bisset, one of the trustees named in the will, now came forward and asked for an adjournment to a particular time in order that Mr. Bisset might institute certain proceedings, whatever they might be. Mr. Bisset was entitled to appeal from the decision of that Court to the Circuit Court of the United States for the district of California, and there was a time, fixed by law, to enable him to perfect his plea. He now desired, he presumed, to appeal from that decision, and under these circumstances, he thought the first question to be considered was Mr. Wainewright's motion.

Mr. Wainewright said that with reference to his motion, it would not be necessary, he thought, to read the affidavit of Mr. Buchanan. Mr. Bisset was, of course, not only interested as one of the executors named in the will, but also as a party beneficially interested under the will, and he would suggest to the Court, in view of Mr. Henderson's objections, that it would be proper for all those who were interested beneficially under the will should have notice of these proceedings to set the will aside.

His Honor:—Of course.

Mr. Wainewright:—Therefore, I think that a discussion of my motion is hardly necessary, because it would be obviously unfair to those in Europe—I only represent Mr. Bisset,—but I think that all parties interested under the will should have notice of Mr. Henderson's objections, so that they may have an opportunity of being heard upon them in that Court. Therefore, although I name the 30th November as being the day by which I think I can obtain an answer, yet I would ask the Court in the interest of all parties concerned to make some order of citation to all the persons interested.

His Honor:—Quite so; I propose to do that by publication, and by mail to the usual place of residence. It was somewhat singular, he might say, that the beneficiaries named in the will, residing in Europe, had not put in an appearance here before, because they had been advised for many months of the death of the testator and the petition for probate and letters testamentary. Their appearance was not necessary so long as it was simply a question of trustees, but now the will itself was brought into question.

Mr. Henderson said he might explain that parties in Europe had written to him to say that certain matters might be done in regard to the estate from time to time, and he had been told that they were informed by Mr. Bisset that certain difficulties had appeared upon the face of the will, and that the will would be pronounced nugatory upon those difficulties, and that they were waiting for something to be done. That was, at all events, the explanation he had to make for one of the parties in Europe.

Mr. Drummond said that in regard to the matter before the Court he had not, as His Honor would observe, joined issue or filed any document in reply to the objections filed by Mr. Henderson. At the present moment his position before the Court was simply and solely in support of the petition which he had filed. With regard to that he would state, in the first instance, that the petitioners filed that petition simply and solely in consequence of the judgment of His Honor declaring Mr. Bisset unable legally to act as executor and trustee of the will. Had the judgment been to the opposite effect, the petitioners, acting under their power of attorney, would have been perfectly willing to have acquiesced in it, and would have made no objection to the estate being placed in Mr. Bisset's hands. In regard to Mr. Henderson's objections; the first objection was, "that as appears upon the face thereof, the said will is inconsistent, contradic tory, and impossible of execution." Now that was a question of law; all that it was necessary to do on this objection was to consider the terms of the will itself, and the authorities bearing upon such matters. The same remarks applied to the second objection, stating "That as appears upon the face thereof the said will is uncertain and unintelligible in its provisions." The third objection, "That as appears upon the face thereof the said will unlawfully tends to create an estate in perpetuity, and unlawfully infringes and violates the rule against perpetuities, and unlawfully creates an estate in perpetuity," was also a question of law. The only point to be considered was whether the will did create an estate in perpetuity, and, if so, whether that was a good and sufficient ground for setting the will aside. No evidence was needed upon the matter. The fourth objection stated, "That the true, lawful, and proper name of the person called Edwin Maurice Smith, in said petition, and who died at Shanghai on or about the 19th day of November, 1878, as alleged therein, was Edwin Maurice Pitcher, and that the name "Edwin Maurice Smith," by which the said deceased was latterly known, was a false and fictitious name, which the said deceased had unlawfully assumed, and that as appears upon the face thereof the said alleged will was executed, if at all, by said deceased, under and in such unlawful false and fictitious name." In regard to this objection, of course evidence would be necessary if its correctness was disputed, but assuming that it would be admitted as a correct statement, it would then be simply a question of law whether that fact was a sufficient ground for setting the will aside. He thought it could be clearly shown that such a fact was not a sufficient ground for setting the will aside; and this was the first objection which imported any question of fact at all. Probably any of the parties connected with this matter from beginning to end would, he believed, be perfectly willing to admit the correctness of the fact referred to in the objection.

Mr. Wainewright:—Yes, that is so. I would not contest it for a moment, and it would not therefore be necessary to give any evidence upon it.

His Honor:—The only additional point is—if he did it for an unlawful purpose, to avoid a debt for example, what would then be the effect of his using this fictitious name in his will?

Mr. Henderson:—To defraud his creditors for example?

Mr. Drummond said he did not think that could possibly make the will bad. He did not think his motive could make the will good or bad. If a false signature made a will bad then it was bad, if it did not, then he thought the will would be admitted as sound. The fifth objection was, "That the said Edwin Maurice Pitcher, falsely called Edwin Maurice Smith, was never married, and died without lawful children." That was a matter which did not affect them in the least. It had never been alleged that he was married, or that he had any lawful children. The same remarks would apply to the 6th objection: "That they the aforesaid Debly Everly and Emily Pitcher are sisters of the said deceased, and that they the aforesaid Belle Walker, Lizzie Walker, and Amanda Walker are nieces of the said deceased, and that they all are next of kin and heirs at law of the said deceased." It did not matter whether they were or were not; a fact like that did not affect the will one way or another. The one fact, and the only one throughout the objections, on which it would be necessary to take testimony, was the seventh: "That at the time said alleged will was made the deceased was unsound of mind, memory, and understanding, and incapable of making a will." No doubt the question of this fact had struck His Honor as the most important one of all, and the one which went nearer to the root of the matter whether this will was sound or not. If it was a correct statement that deceased was of unsound mind, memory, and understanding, that would undoubtedly be a sound reason for setting aside the will. The last objection, "That the said alleged will unlawfully vests and attempts to vest the estate of the said deceased in persons legally incapable of taking and of holding it," appeared to him to be quite immaterial. If some persons named in the will were incapable of taking and holding the property, that would merely make it bad so far as their interests were concerned, and they would be struck out of it, but that would not affect the validity of the will as a whole. With regard to Mr. Henderson's objections, he did not take the course of contesting them, or of consenting to them. As to Mr. Wainewright's suggestion, he thought it was a reasonable and proper one, and he thought it was a proper proceeding that beneficiaries named in the will who were residing in England, and who were English subjects, should, when the will was contested, have a citation served upon them, and that proof of that having been done should be brought before the Court, before the Court undertook to try the question at all. If the Court now thought proper to grant the prayer of the petitioners, and to admit the will to probate that would not make the will a good one, if it was a bad one, and the persons whom Mr. Henderson represented would have sufficient time to revoke the probate and set it aside. The granting probate of the will, then, would simply have the effect of saying that the Court was satisfied *primâ facie* that the will was a good one, That was the position he put before the Court for the petitioners. So far as the issuing of a commission went, he throught it was wholly unnecessary and he would oppose the issuing of it.

After some further remarks,

Mr. Henderson said it could not be proved in that country by competent witnesses why the testator changed his name, but it could be shown that he did it for purposes which that Court would not assist. As to what Mr. Drummond had stated about hurrying the matter up, he would remind His Honor that the petitioners had no power, as exhibited by documents filed in that Court, to asks for probate of the will at all. He would also call the attention of the Court to the further fact that they were disqualified, as being attorneys for one of the beneficiaires, for the position of trustees in the matter.

After some further conversation,

His Honor said the only question for him to consider then was the application for adjournment on behalf of Mr. Bisset, who stood in a position where he had a right to come forward and make such an application. He was named in the will as one of the trustees, and as a decision had been rendered adverse to his holding that position, he had the right to appeal against that decision, and a right to be allowed sufficient time to perfect his appeal. There was no doubt of the fact that the petitioners had come forward very properly. After the decision of the Court was given, and representing the beneficiaires as they did under powers of attorney, he thought it was their duty to come forward and apply for probate of the will, and that letters testamentary should be issued to them. He would be glad to issue letters of administration to them if the matter was in a position to enable him to do so, because he thought they were in every way fit and proper parties to receive them, but the situation of the case had entirely changed since they had filed their petition. Mr. Bisset had come in and asked for a continuance presumably for the purpose of appealing against the decision, and some heirs at law had also come in to oppose the will, so that the whole situation had changed. There was but one question to be considered under the present circumstances, and that was the question of adjournment, and he certainly must grant the motion made on behalf of Mr. Bisset for a postponement of the hearing. As to the time, it seemed to have been agreed upon by the learned gentlemen engaged in the proceedings that four months would be a proper period for the matter to stand over, under all the circumstances. Citations would be issued at once by publication and by copies being sent by mail to the places of residence of the different beneficiaires in Europe and in Canton. Commissions would also be issued at once, to take testimony and would be returnable in four months from the day of adjournment. How would they arrange the commission—would they have interrogatories and cross interrogatories?

Mr. Henderson said he did not think that would be possible in taking evidence of this kind.

His Honor :—Is it by consent of all parties that a commission to take testimony be issued?

Mr. Wainewright :—I am not in a position to consent.

Mr. Drummond said the usual course in regard to commissions was that when a person wished for testimony he applied to obtain the order and to send the commission, and gave notice to other parties asking them if they wished to join in it. If they did, they proceeded together.

His Honor said that that, no doubt, was the usual course.

The hearing was then adjourned until Monday, the 2nd February.

Mr Wood

No. [39] Oct. 6, 1879. United States Consulate General at Shanghai,

Mr. Chas. A. Bailey, Consul General, to the State Department,

Subject: Returns of Criminal Suits (Mixed Court). Dec. 12/79

DEPARTMENT OF STATE
NOV 25 1879
RECEIVED

ABSTRACT OF CONTENTS.

Returns of Criminal cases before the Mixed Court at Shanghai during the third quarter of 1879.

file

No. 38

United States Consulate General,

Shanghai, Oct. 6, 1879.

Hon. Charles Payson
Third Assistant
Secretary of State,
Washington, D.C.

Sir,

I have the honor to transmit herewith the Returns of Criminal cases that have been brought before the Mixed Court of the Imperial Chinese Government and the United States Consulate-General for this Consular District during the third quarter of the current year.

I have the honor to be,

Sir,

Your Obedient Servant

Consul-General.

[Form No. 137.]

Chinese Government and the Municipal COURT OF THE UNITED STATES CONSULATE GENERAL AT SHANGHAI CHINA.

Return of Criminal Suits from the 1st day of July to the 30th day of September 1879 inclusive.

	NAME AND NATIONALITY OF PLAINTIFF.	NAME OF DEFENDANT.	NATURE OF SUIT	JUDGMENT	AMOUNT OF FINE IMPOSED.	AMOUNT OF FEES CHARGED AND RECEIVED.	DISPOSITION OF FINES AND FEES.	APPEAL
	P. Bletter	Chang Sing-fong	Assault	200 blows	$15.00 damages			
	Municipal Council	Chu Chin-shing	Robbery	200 "				
	" "	Wang Fang-hiang	Nuisance	Discharged on Bond of penalty			Municipal	
"	" "	Li A-hsin Li A-hsin	Assault		$2.00		Hospital Funds	
"	" "	Jang Fu-hsin Wang Chin-jung	Altercation		$0.50		" "	
"	" "	Kung Hsin-hiang	Drunkenness and Assault	Withdrawn				
"	" "	Hsü Chi-mao	Indecent battery	1 day's jail				
"	" "	Wang A-fu	Shouting in the streets at night	Dismissed				
"	" "	Wang A-hsin	Theft	40 blows				
13	E. P. Bleasdale	Wang Hsi-shing	Fraud	To make good all damages				
"	A. & S. Bank	Chu Tzü-mao	Forgery	200 blows				
"	Municipal Council	Wen A-shing	Theft	100 blows and 1 month's cangue				
"	" "	Chou A-fao Chang A-jung Shih Chang-shih	Assault	Dismissed				
"	" "	Chang Hsiao-fa	Theft	60 blows				
"	" "	Wang A-sao	" "	1 week's jail				
"	" "	Wang A-chin	Jail-breaking	200 blows and 6 months' jail				
17	8 " "	Chin A-chin	Breach of peace		$0.25			
18	" " "	Tsao A-chin	Assault	To make good damages				
19	" Tsai A-hung	Li Chin-ho	" "	" "	"			
20	" Municipal Council	Yang A-jung	Fighting	3 days' jail				
21	" Shu A-chin	Shih-shih	Theft	Dismissed				
22	" Municipal Council	Chu Chin-jung Chu Yüan-fu	Fighting	1 day's jail				

Marshal of the U. S. Consular Court.

[Form No. 137.]

Chinese Government and the Mixed COURT OF THE UNITED STATES CONSULATE GENERAL AT SHANGHAI CHINA.

Return of Criminal Suits from the 1st day of July to the 30th day of September 1879 inclusive.

NO. OF CASE.	DATE OF FIRST PROCEEDINGS.	NAME AND NATIONALITY OF PLAINTIFF.	NAME OF DEFENDANT.	NATURE OF SUIT	JUDGMENT	AMOUNT OF FINE IMPOSED.	AMOUNT OF FEES CHARGED AND RECEIVED.	DISPOSITION OF FINES AND FEES.
13	July 10	Wang Sau	Chao Siu-chuan	Assault	2 months' imp Chaingpang			
14	"	Wang Siu-tah	Lei Ju-chun	Theft	100 blows and 3 months' cangue			
15	"	Wang Siu-yuan	Wang Ting-tien	" "	1 week's jail			
16	"	Chao Chiao-zung	Wang Sao-jung	" "		$0.50		Municipal Hospital
17	"	Chiang Ah-fu	Chen Siu-ging	Assault	Dismissed			
18	"	Shen Sung-ting	Zu Siu-shing	Theft	1 month's jail			
19	"	Chow Ah-shing	Siu Ah-pao	" "	Remanded			
20	15	Chao Chiau-shou	Wang Sai-kao	" "	1 week's jail			
21	"	Municipal Council	Siu Ziu-shou	" "	Remanded			
22	"	Wang Ah-kao	Chu Chiu-ching	Assault		$0.50 damages		
23	"	Si Chiu-shou	Siu Zui-fiao Wang Kao-zuao	" "		$2.00 "	"	
24	"	Jang Lui-chiu	Siu Ah-shih	Larceny	3 months' jail			
25	17	Wei Ching-chiau	Siu Kao-li	Obtaining money under false pretenses	Withdrawn			
26	"	Municipal Council	Wang Ah-hsiu	Nuisance		$0.25	"	"
27	"	" "	Kai Ah-hsing	" "		$0.25	"	"
28	"	Chiu Kiu-kei	Chang Ting-yeh	Theft	2 weeks' jail			
29	"	Wang Ah-tien	Wang Ah-erh	Larceny	80 blows			
30	22	Mr. Jedelius	Wang Kiu-hsiu	Theft	100 blows and 2 months' jail			
41	"	Wang Kao-chang	Chang Ah-fei	Robbery	Remanded			
42	"	Municipal Council	Zui Ting-chiau	Indecent bathing	1 day's jail			
43	"	Captain Billings	Chiu Ah-erh	Theft	200 blows and 6 months' jail			
44	"	Municipal Council	Shen Sien-kuei	Obstructing thoroughfare		$0.50	"	"
45	"	" "	Chung Shen-yung	Nuisance	1 day's jail			

Marshal of the U. S. Consular Court.

[Form No. 137.]

Mixed Court of the Chinese Government and the United States Consulate General at

Return of Criminal Suits from the 1st day of July to the 30th

OF CASE.	DATE OF FIRST PROCEEDINGS.	NAME AND NATIONALITY OF PLAINTIFF.	NAME OF DEFENDANT.	NATURE OF SUIT	JUDGMENT	AMOUNT OF FINE IMPOSED.
56	July 22	Chien Tsing-yün	Ho A-fu	Theft	Dismissed	
57	"	Municipal Council	Ting Chin-show	Nuisance	1 day's jail	
58	"	Kuan Jui-show	Tao Jih-chai	Theft	Dismissed	
59	24	Yü Hsiang	Ting & Wang & Li Kuei & Ho Show	Assault	Remanded	
60	"	J. S. Shirkell	Chang Hsü-hsiang	Theft	" "	
61	"	Municipal Council	Chang Chiao-chin	Assault		$4.00
62	"	Kuo Yün-shêng	Kuo Hsing-yün	Theft	" "	
63	"	Chao E-kuei	Jang Yün-shih & Chang Chü-hsiang	Robbery	1 week's jail	
64	"	Municipal Council	Chang Jui-fao	Nuisance		$0.25
65	"	" "	Chin Hsing-fu	" "	1 day's jail	
66	"	Chin Jung-shih	Yü A-shuan	Wilfully damaging property of others	To make good all dam	
67	29	Municipal Council	Chang A-kuei	Delinquency	2 weeks' jail	
68	"	" "	Hsü Chü-chang	Assault	2 " "	$0.25
69	"	Sun A-chun	Hsia Hsiao-hsiao	Cutting and wounding	Dismissed	
70	"	Municipal Council	Sun A-sun	Nuisance		$0.25
71	Aug. 2	" "	Li Ao-shang & Ting Ti-an	Boisterous conduct at night in street	First = 60 blows Second = 1 day's jail	
72	"	" "	Hsia A-sun	Nuisance		$0.25
73	"	" "	Hsia Chin-show	" "		$0.25
74	"	Yü A-ting	Chou Kuei-hsin	Assault	Dismissed	
75	"	C. Kerr	Wang A-miao	Theft	1 day's jail	
76	"	H. C. Ricketts and Josiah Mansfield	Chu Show-hsin & Chu Show-ting	Assault	Withdrawn	
77	"	Chin Shih	Ting Hao-fang & Ao Kuei-mei	" "	$1.00 damages	$0.50

Marshal

[Form No. 137.]

...ese Government and the OF THE UNITED STATES CONSULATE GENERAL AT SHANGHAI CHINA.

...al Suits from the 1st day of July to the 30th day of September 1877, inclusive.

	NAME OF DEFENDANT.	NATURE OF SUIT	JUDGMENT	AMOUNT OF FINE IMPOSED.	AMOUNT OF FEES CHARGED AND RECEIVED.	DISPOSITION OF FINES AND FEES.	APPEAL.
...w	Ho A-fan	Theft	Dismissed				
...t	Ting Chin-shou	Nuisances	1 day's jail				
...w	Tao Jih-shai	Theft	Dismissed				
	Ting &	Assault	Remanded				
	Wang &						
	Li Wen						
	Ho Shou						
...i	Chang Sui-ching	Theft	" "				
...ib	Chang Chiao-chin	Assault		$4.00		Municipal Hospital Funds	
...w	Kew Sung-yün	Theft	" "				
	Jang Jün-shih	Robbery	1 week's jail				
	Chang Chi-hsiang						
...b	Chang Jui-fao	Nuisance		$0.25		" "	"
	Chin Sang-fu	" "	1 day's jail				
...b	Jü A-chüan	Wilfully damaging property of others	To make good all damages				
...ib	Chang A-yeü	Delinquency	2 weeks' jail				
	Sün Chi-chang	Assault	2 " "	$0.25		" "	"
	Sün Sün-liao	Cutting and wounding	Dismissed				
...ib	Sün A-sau	Nuisance		$0.25		" "	"
	Li Ho-shang	Boisterous conduct	Irish =	60 blows			
	Jang Li-an	at night in street	Second =	1 day's jail			
	Sün A-sau	Nuisance		$0.25		" "	"
	Sün Chin-shou	" "		$0.25		" "	"
	Chow Kuei-lin	Assault	Dismissed				
	Wang A-mao	Theft	1 day's jail				
...nd	Chu Show-lin	Assault	Withdrawn				
...b	Chu Show-tang						
	Jang Hao-fang	" "	$1.00 damages	$0.50		" "	"
	Ao Kün-mei						

Marshal of the U. S. Consular Court.

[Form No. 137.]

Chinese Government and the

Ningpo COURT OF THE UNITED STATES CONSULATE GENERAL A

Return of Criminal Suits from the 1st day of July to the 30th

No. of Case	Date of First Proceedings.	Name and Nationality of Plaintiff.	Name of Defendant.	Nature of Suit	Judgment	Amount of Fine Imposed.
78	Aug. 2	Mr. and Mrs. Atwater	Shên Sü-shih	Assault	Dismissed	
79	" 4	Municipal Council	Sun Asin-fao Ho Asü-yen	Fighting	Withdrawn	
80	" 5	" "	A gang of 47 gamblers	Gambling		$100.00
81	" "	" "	Chên Sü-shan	Theft	1 week's jail	
82	" "	Sun Fu-shun	Ho Jung-chün	Assault	Remanded.	
83	" "	Wang Jüan-yü	Wang A-chêng Wang Ao-sü	Embezzlement	Withdrawn	
84	" "	Municipal Council	Jung Kü-fu Li Wan-fu	Fighting	100 blows	
85	" "	Ho A-sü	Wang Mao-wang	Assault	Dismissed	
86	" 7	Jen A-hsin	Chang Fu-tsai	Theft	2 weeks' jail	
87	" "	Captain Wilds	Jü A-ting	Nuisance		$0.50
88	" "	Chou Shih	Sü Jüan-shan Chin Shêng-hsi	Assault	$1.00 damages	
89	" "	Municipal Council	Wang Chüan-shêng Sün Fen-ting	Cruelty to animals		$2.00
90	" "	Wang Sun	Wang Êrh	Assault		$1.00
91	" "	Sêng Fü-yün	Wang A-êrh Sêng A-sun	Rodjisun	2 weeks' jail	
92	" "	Hsü Tê-shun	Hsü A-chin	Theft	2 " "	
93	" 12	Municipal Council	Chang Chin-kuei Yü A-sun	Fighting	Dismissed	
94	" " "	" "	Sun Kuei-mei Shu A-lo	" "	" "	
95	" " "	" "	Kao A-êrh Shih A-fu	" "	$0.50 damages	
96	" " "	" "	Yü Yüeh-lin	Nuisance	1 day's jail	
97	" " "	" "	Chang Fu-tsai	Theft	$1.00 damages	

Marshal

[Form No. 137.]

...s Government and the OF THE UNITED STATES CONSULATE GENERAL AT SHANGHAI CHINA.

...al Suits from the 1st day of July to the 30th day of September 1893, inclusive.

NAME OF DEFENDANT.	NATURE OF SUIT	JUDGMENT	AMOUNT OF FINE IMPOSED.	AMOUNT OF FEES CHARGED AND RECEIVED.	DISPOSITION OF FINES AND FEES.	APPEAL.
...Shin Si-shih	Assault	Dismissed				
...Sun Sein-pao	Fighting	Withdrawn				
Ho Sei-yen						
A band of 47 gamblers	Gambling		$100.00		Municipal Hospital and Charity Funds	
Chin Si-shan	Theft	1 week's jail				
Ho Yung-chin	Assault	Remanded.				
...Wang A-chin	Entanglement	Withdrawn				
Wang Ah-sui						
...Yang Kai-fu	Fighting	100 blows				
Li Wan-fu						
Wang Hao-wang	Assault	Dismissed				
Chang Ju-tsai	Theft	2 weeks' jail				
...Yü A-ting	Nuisance		$0.50		Municipal Hospital Funds	
Sun Jüan-shan	Assault	$1.00 damages				
Chin Shing-hai						
...Wang Chüan-shing	Cruelty to		$2.00		" "	"
Sü Jen-hung	animals					
Wang Erh	Assault		$1.00		" "	"
...Wang A-erh	Robbing	2 weeks' jail				
Shing A-sau						
...Dou A-chin	Theft	2 " "				
...Chang Chin-kuei	Fighting	Dismissed				
Yü A-sau						
Sau Ssiao-mei	" "	" "				
Sü A-lo						
Kao A-erh	" "	$0.50 damages				
Shih A-fu						
Yü Yüeh-lin	Nuisance	1 day's jail				
Chang Lu-tsai	Theft	$1.00 damages				

Marshal of the U. S. Consular Court.

[Form No. 137.]

Chefoo Supplement to the Mixed COURT OF THE UNITED STATES CONSULATE GENERAL AT

Return of Criminal Suits from the 1st day of July to the 30th d

OF CASE.	DATE OF FIRST PROCEEDINGS.	NAME AND NATIONALITY OF PLAINTIFF.	NAME OF DEFENDANT.	NATURE OF SUIT	JUDGMENT	AMOUNT OF FINE IMPOSED.	A
8	Aug. 12	Sun A-lan	Li Shih-yuan	Theft	2 weeks' cangue		
9	14	J. M. Brown	Ma Kuei-lin	Embezzlement	Remanded		
90	"	Municipal Council	Chang Chü-tien	Fighting	Withdrawn		
			Sun A-yü				
91	"	" "	Chao A-kow	Cruelty to animals		$3.00	
92	"	" "	Pan Ming-fu	Nuisance		$0.75	
			Chin Sa-kuei				
			Chao A-ching				
93	"	" "	Chin Chun-ching	Theft	1 month's cangue		
94	"	Hsiao Jing-hsi	Shih Ching-hua	Cutting and	Remanded		
		Chow Chiu-ting		wounding			
95	"	Municipal Council	Chin Sa-fa	Theft	80 blows		
96	"	" "	Hsiang Shêng-tsai	Fighting	Dismissed		
			Hsiang Kuan-chêng				
97	19	" "	Chang Chü-kow	Nuisance	" "		
98	"	Shih Yü-fêng	Kuei A-kin	Creating a		$1.00	
			Chin A-chüan	disturbance			
			Liang A-kai				
			Yang A-yi				
99	"	Hsiao Chun-ko	Niu Hsiao-chêng	"	"	First = 100 blows and 1 mo	
			Chin Chüan-hu			Second = $1.00 damage	
100	"	Municipal Council	Chang Hsiao-hu	Nuisance	1 day's jail		
101	"	Chang Hsiao-chi	Chow Hsien-ching	Theft	2 weeks' cangue		
102	"	Municipal Council	Chiang Li-chun	Nuisance		$1.25	
103	"	Ho Jun-hsiao	Tsêng A-yü	Theft	Remanded		
104	"	Sung Kuei	Chiu A-kow	" "	2 weeks' jail		
105	"	Chiu A-êrh	Chang A-tsü	Poisoning	60 blows		
106	21	Municipal Council	Yü Tsai-yü	Nuisance	First = 1 day's jail		
			Kuêng A-tê		Second and third =		
			Hsiang Sung-hsiao		$0.50		

Marshal

[Form No. 137.]

Chinese Government and the

RT OF THE UNITED STATES CONSULATE GENERAL AT SHANGHAI CHINA.

minals Suits from the 1st day of July to the 30th day of September 1879 inclusive.

LITY	NAME OF DEFENDANT.	NATURE OF SUIT	JUDGMENT	AMOUNT OF FINE IMPOSED.	AMOUNT OF FEES CHARGED AND RECEIVED.	DISPOSITION OF FINES AND FEES.	APPEAL.
te	Li Shih-yüan	Theft	2 weeks' canque				
ese	Hsü Kuei-lin	Embezzlement	Remanded				
Consul	Chang Chün-tien	Fighting	Withdrawn				
	Su Ai-yüe						
"	Chao Ah-kow	Cruelty to animals		$3.00		Municipal Hospital	Fund
"	Sam Ming-fu	Nuisance		$0.75		" "	"
	Chin Sa-kuei						
	Chao Ah-chang						
"	Chin Chun-chang	Theft	1 month's canque				
-kai	Shih Ting-kuei	Cutting and	Remanded				
-tien		wounding					
Consul	Chin Sa-fa	Theft	80 blows				
"	Wang Ching-tsai	Fighting	Dismissed				
	Wang Kuan-chang						
"	Chang Chi-kow	Nuisance	" "				
fang	Kuei Ah-kin	Creating a		$1.00		" "	"
	Chin Ah-chüan	disturbance					
	Liang Ah-kai						
	Yang Ah-yi						
w-ko	Kuo Lao-chang	" "	First = 100 blows and 1 week's jail				
	Chin Chüan-kui		Second = $1.00 damages				
Consul	Chang Lao-kui	Nuisance	1 day's jail				
-chi	Chow Lien-ching	Theft	2 weeks' canque				
Consul	Chiang Li-chin	Nuisance		$1.25		" "	"
hsiao	Liang Ah-yüe	Theft	Remanded				
Kuei	Chin Ah-tsai	" "	2 weeks' jail				
-Ark	Chang Ah-yüe	Poisoning	60 blows				
Consul	Yüe Kai-yüe	Nuisance	First = 1 day's jail				
	Kuei Ah-te		Second and Third =				
	Kuang Sung-pao		$0.50				

Marshal of the U. S. Consular Court.

Chinese Government and the [Form No. 137.]

Mixed COURT OF THE UNITED STATES CONSULATE GENERAL AT

Return of Criminal Suits from the 1st day of July to the 30th day

CASE.	DATE OF FIRST PROCEEDINGS.	NAME AND NATIONALITY OF PLAINTIFF.	NAME OF DEFENDANT.	NATURE OF SUIT	JUDGMENT	AMOUNT OF FINE IMPOSED.	AM
117	Aug. 21	Yeh Chang-shih	Wang Kuei-chang	Theft	40 blows		
118	" 26	Wang Chin-fu	Chin A-erh	Pocket-picking	100 blows		
119	"	Municipal Council	Hsü Jung-yüan	Robbery	3 months' jail		
120	"	" "	Yen Ah-chow	Theft	100 blows and 1 month's jail		
121	"	Pao Shih-chin	Wang A-sao	" "	2 weeks' jail		
122	"	Municipal Council	Sêng A-yü	Receiving stolen property	To forfeit the property purchased		
123	"	Wang Sam-t'ai	Chin A-ting	Theft	100 blows		
124	"	Municipal Council	Hsü Hsiao-mao	Nuisance		$0.25	
125	"	" "	Hsü Kuei-fêng	" "	1 day's jail		
126	"	" "	Yang Chin-wei	Theft	Dismissed		
127	"	Ah Sui-a	Chin A-ting Ah A-tsao	Assault	1 month's jail		
128	" 28	Municipal Council	Yen Ah-hsiang	Nuisance		$0.25	
129	"	" "	Chin Hsü-fang	" "	1 day's jail		
130	"	Chin A-sao	Chang A-sao	Drunk and disorderly	$0.25 damages		
131	"	Wang Yen-sao	Hsia Jung-chow	Assault	Remanded		
132	"	Chin A-chü	Chang A-sao	Purloining	100 blows and 1 week's cangue		
133	"	Chang Hsü-shih	Tsao Chin-fu	Robbery	100 blows		
134	"	Municipal Council	Shin A-chüan	Drunk and disorderly	2 weeks' cangue		
135	"	" "	Yang Hsü-shih Yen Chin-lu Yang A-sao Yang Jung-hua Yen Yu-shih	Fighting	Dismissed		
136	Sept. 4	Shen Jui-hsing	Chin Wei-chin	Theft	100 blows		

Marshal of

Chinese Government hands, &c. [Form No. 137.]

RT OF THE UNITED STATES CONSULATE GENERAL AT SHANGHAI CHINA.

inal Suits from the 1st day of July to the 30th day of September 1879, inclusive.

Y	NAME OF DEFENDANT.	NATURE OF SUIT	JUDGMENT	AMOUNT OF FINE IMPOSED.	AMOUNT OF FEES CHARGED AND RECEIVED.	DISPOSITION OF FINES AND FEES.	APPEAL.
hih	Dzang Kwei-shing	Theft	40 blows				
ses	Chin A-erh	Pocket-picking	100 blows				
mail	Hsü Ting-yüan	Robbery	9 months' jail				
	Yen Ah-shan	Theft	100 blows and 1 month's jail				
hin	Dzang A-sao	" "	2 weeks' jail				
mail	Sêng A-yü	Receiving stolen property	To forfeit the property purchased				
's'ai	Chin A-ting	Theft	100 blows				
mail	Hsü Hsiao-mao	Nuisance		$0.25		Municipal Hospital Fund	
	Hsü Kwei-fêng	" "	1 day's jail				
	Yang Chin-wei	Theft	Dismissed				
	Chin A-ting	Assault	1 month's jail				
	Ho A-tsao						
mail	Yao Ah-ting	Nuisance		$0.25		" " "	
"	Chin Kwei-fang	" "	1 day's jail				
sao	Chang A-sao	Drunk and disorderly	$0.25 damages				
sao	Hsia Ting-chow	Assault	Remanded				
ü	Chang A-sao	Purloining	100 blows and 1 week's canque				
shih	Tsao Chin-fu	Robbery	100 blows				
mail	Shin A-chüan	Drunk and disorderly	2 weeks' canque				
"	Yang Hsü-shih	Fighting	Dismissed				
	Yen Chin-ku						
	Yang A-sao						
	Yang Yung-hua						
	Yen Sü-shih						
hsing	Chin Kwei-chin	Theft	100 blows				

Marshal of the U. S. Consular Court.

OF CASE.	D P
27	
28	
29	
30	
31	
32	
33	
34	
35	
36	
37	
38	
39	
40	
41	
42	
43	
44	
45	
46	

[Form No. 137.]

Mixed Chinese Government and &c. COURT OF THE UNITED STATES CONSULATE GENERAL AT

Return of Criminal Suits from the 1st day of July to the 30th

OF CASE.	DATE OF FIRST PROCEEDINGS.	NAME AND NATIONALITY OF PLAINTIFF.	NAME OF DEFENDANT.	NATURE OF SUIT	JUDGMENT	AMOUNT OF FINE IMPOSED.
27	Sept. 4	Chin Chang-fu	Chin A-ping	Theft	80 blows	
28	"	Shih A-fu	Sin Shih-yu Sin Fu-chin	Assault	Withdrawn	
29	"	Municipal Council	Ching A-yiao	Drunkenness	Cautioned	
30	"	" "	Ko Fu-teng	Nuisance		$2.00
31	"	" "	Ying Sao-shi'an	" "		$0.50
32	"	Chang Shih	Sun Fu-hsing	Theft	Dismissed	
33	9	Jen Sin-jen	Jen Chin-ping	" "	3 days' jail	
34	"	Sr. B. Hamisah T. L. Skinner	Kan Chang-shou	Nuisance	Cautioned	
35	"	Wang Shih-mei	Chin Fu-jen	Theft	Remanded	
36	"	Chang Ang-kao	Sun Ching-shou	" "	3 days' cangue	
37	"	Chin Fu-shun	Chin A-te	" "	1 week's jail	
38	"	Municipal Council	Lai Kuei-chuan	Nuisance		$0.25
39	11	Li Chin-ting	Jen Ha-fu	Assault	Withdrawn	
40	"	Municipal Council	Sun Chiao-yao Hsia A-chin	Drunkenness	Cautioned	
41	"	" "	Chin A-yung	Nuisance		$0.25
42	"	" "	Wang Shou-yu	" "	1 days' jail	
43	18	S. C. Tambaudo	Shih A-chin	Theft	1 months' jail	
44	"	Municipal Council	Ting Hsi-kun	" "	2 weeks' jail	
45	"	" "	Chang A-chiao	Nuisance	2 days' jail	
46	"	" "	Chiang Sung-chiao Kao A-kuei	Obstructing Street		$1.00
47	"	Hsia Chin-ting	Chou Kuei-shing Ting A-yun Yeh A-kui Ao Hsiao-fang	Theft	Remanded	
48	"	Chin Ah-fu	Sun A-erh	" "	Discharged	
49	"	Municipal Council	Chou A-chin	Gambling	40 blows	

Marshal

[Form No. 137.]

Chinese Government and the

COURT OF THE UNITED STATES CONSULATE GENERAL AT SHANGHAI CHINA.

Criminal Suits from the 1st day of July to the 30th day of September 187 9 inclusive.

NATIONALITY OF PLAINTIFF.	NAME OF DEFENDANT.	NATURE OF SUIT	JUDGMENT	AMOUNT OF FINE IMPOSED.	AMOUNT OF FEES CHARGED AND RECEIVED.	DISPOSITION OF FINES AND FEES.	APPEAL.
[illegible]-fu	Chiu A-jing	Theft	80 blows				
[illegible]fu	Siu Heng-yu	Assault	Withdrawn				
	Siu Fu-cheng						
[illegible] Council	Ching A-yüan	Drunkenness	Continued				
"	Ko Fu-kwei	Nuisance		$2.00		Municipal	Hospital	Fund
"	Ying Sao-chiang	" "		$0.50		"	"	"
[illegible]chih	Au Fu-hsing	Theft	Dismissed				
[illegible]-jen	Jen Chin-jing	" "	3 days' jail				
[illegible]isah	Kau Chang-show	Nuisance	Continued				
[illegible]kwei							
[illegible]q-wei	Chiu Fu-jen	Theft	Remanded				
[illegible]q-kao	Au Ching-show	" "	3 days' cangue				
[illegible]-shun	Chiu A-ke	" "	1 week's jail				
[illegible] Council	Kai Kwei-chiang	Nuisance		$0.25		"	"	"
[illegible]-ting	Jen Ma-fu	Assault	Withdrawn				
Council	Sun Chiang-yung	Drunkenness	Continued				
	Hsia A-chin						
"	Chiu A-yung	Nuisance		$0.25		"	"	"
"	Wang Show-yu	" "	1 day's jail				
[illegible]hanghai	Shih A-chin	Theft	1 month's jail				
Council	Ting Hsi-kun	" "	2 weeks' jail				
"	Chang A-chiang	Nuisance	2 days' jail				
"	Chiang Tung-chiang	Obstructing		$1.00		"	"	"
	Kao A-kwei	Street					
[illegible]-ting	Chu Kwei-shing	Theft	Remanded				
	Ting A-yun						
	Yeh A-hsi						
	Ko Shao-fang						
[illegible]-fu	Sun A-ken	" "	Discharged				
Council	Chou A-chin	Gambling	40 blows				

Marshal of the U. S. Consular Court.

Chinese Government Courts &c. [Form No. 137.]

Shipped COURT OF THE UNITED STATES CONSULATE GENERAL AT

Return of Criminal Suits from the 1st day of July to the 30th

OF CASE.	DATE OF FIRST PROCEEDINGS.	NAME AND NATIONALITY OF PLAINTIFF.	NAME OF DEFENDANT.	NATURE OF SUIT	JUDGMENT	AMOUNT OF FINE IMPOSED.
160	Sept. 18	Municipal Council	Chang A-chin Li Chu-ch'üan	Robbery	1 week's jail	
161	"	Lei Lien-chung Liang Shih	Chang A-yan	Theft	100 blows and 4 months' jail	
162	20	Municipal Council	Liu A-gün Chin Yü-shêng Shih Chin-fang	Robbery	Cautioned	
163	"	Sao Shih-shih	Kuei A-lung Chên A-chin Li A-fu	Assault	100 blows each	
164	"	Municipal Council	Miao Kai-kuei	Nuisance		$0.25
165	"	Union Insurance Company	Chên Lien-hsin	Robbery	1 year in the Chain-gang	
166	"	Municipal Council	Chu Kuei-shêng Liang A-gün Yeh A-hsi	" "	6 months each in the Chain-gang	
167	21st	Hsu Lien-jui	Hsia A-êrh	Theft	100 blows	
168	"	Municipal Council	Chang Ang-tê	Drunkenness	Discharged	
169	"	" "	Liang A-hu	Theft	1 week's jail	
170	"	" "	Su Jên-hui	Disorderly conduct	Remanded	
171	"	Chang A-tsao	Liang A-tê	Robbery	" "	
172	"	Municipal Council	Kuei A-lung Liu A-chü Liang A-êrh	Gambling	First and Second = Third = 2 months' jail	$4.00
173	"	Chang Chü-yun	Chu A-e	Theft	1 week's jail	
174	25th	C. M. Myers	Su Sai-fas	" "	1 month's jail	
175	"	Liang A-tê	Chên A-fas	Robbery	6 months' in the Chain-gang	
176	"	Chou A-tsao	Chu A-rias	Theft	1 month's jail	

Marshal

Chinese Government and Ac. [Form No. 137.]

OURT OF THE UNITED STATES CONSULATE GENERAL AT SHANGHAI CHINA.

Criminal Suits from the 1st day of July to the 30th day of September 1879, inclusive.

TIONALITY NTIFF.	NAME OF DEFENDANT.	NATURE OF SUIT	JUDGMENT	AMOUNT OF FINE IMPOSED.	AMOUNT OF FEES CHARGED AND RECEIVED.	DISPOSITION OF FINES AND FEES.	APPEAL.
h Council	Chang A-chin Li Chu-ch'üan	Fighting	1 week's jail				
u-chung	Chang A-yan	Theft	100 blows and				
Shih			4 months' jail				
Council	Sun A-gün Chün Yü-ching Shih Chin-fang	Fighting	Continued				
h-shih	Hsü A-hung Chün A-chin Li A-fu	Assault	100 blows each				
Council	Hsiao Hsi-kuei	Insurance		$0.25		Municipal Hospital	Fund
surance	Chün Wên-hsin	Robbery	1 years in the				
ury			Chain-gang				
Council	Chu Kuei-ching Tsêng A-gün Yeh A-hsi	" "	6 months each in the Chain-gang				
-jui	Hsia A-êrh	Theft	100 blows				
Council	Chang Ang-tê	Drunkenness	Discharged				
"	Wang A-hu	Theft	1 week's jail				
"	Sun Jên-hui	Disorderly conduct	Remanded				
-tsao	Wang A-tê	Robbery	" "				
Council	Wei A-ting Wen A-chü Wang A-êrh	Gambling	Fish and Second =	$4.00	"	"	"
			Third = 2 months' jail				
hü-yun	Chu A-e	Theft	1 week's jail				
lycee	Sun Sui-pao	" "	1 month's jail				
A-tê	Chün A-pao	Robbery	6 months' in the Chain-gang				
-tsao	Chu A-xiao	Theft	1 month's jail				

Marshal of the U. S. Consular Court.

Chinese Government and the [Form No. 137.]

Mixed COURT OF THE UNITED STATES CONSULATE GENERAL A

Return of Criminal Suits from the 1st day of July to the 30th

CASE.	DATE OF FIRST PROCEEDINGS.	NAME AND NATIONALITY OF PLAINTIFF.	NAME OF DEFENDANT.	NATURE OF SUIT	JUDGMENT	AMOUNT OF FINE IMPOSED.
17	Sept 25	Municipal Council	Kwan Ah-chang	Theft	1 week's jail	
18	"	Chen Jung-tsai	Sun Ah-fat Sun Ah-tsai Kwan Chin-ping	Fighting	Withdrawn	
19	"	C. Wheeler	Chen Ah-chin	Disorderly conduct		$10.00
20	27	Municipal Council	Kwan Chin-ho	Nuisance	1 day's jail	
21	"	"	"	Chen Chen-yuan Kwan Hsiu-kuan	Gambling	Discharged on providing a Bond of Surety
22	"	"	"	Chang Ah-fat Chen Ah-erh	Fighting	Continued

R. H. Maclay
Assistant
Marshal

[Form No. 137.]

...ese Government and the OF THE UNITED STATES CONSULATE GENERAL AT SHANGHAI CHINA.

...al Suits from the 1st day of July to the 30th day of September 1879, inclusive.

NAME OF DEFENDANT.	NATURE OF SUIT	JUDGMENT	AMOUNT OF FINE IMPOSED.	AMOUNT OF FEES CHARGED AND RECEIVED.	DISPOSITION OF FINES AND FEES.	APPEAL.
Kwang Ah-chang	Theft	1 week's jail				
Sun Ah-fu	Fighting	Withdrawn				
Sun Ah-sau						
Kwang Chin-fing						
Chin Ah-chin	Disorderly conduct		$2.50		Municipal Hospital	Dismissed
Kwang Chin-ho	Nuisance	1 day's jail				
Chin Chin-yiau	Gambling	Discharged on providing				
Kwang Shou-kuan		as Bonds of Surety				
Chang Ah-fao	Fighting	Continued				
Chin Ah-erh						

W. H. Macleay, Consular Interpreter and Assessor to the ~~Marshal of~~ the U. S. ~~Consular~~ Court at the Mixed of the Chinese Government and the United States Consulate General at Shanghai, China.

Ack
Inwood

No. 40] October 7th 1879 United States Consulate General at Shanghai,

Mr. Bailey Consul General. to the State Department,

Subject: Consular Services. File

Ans Dec. 12/79

DEPARTMENT OF STATE NOV 28 1879 RECEIVED

ABSTRACT OF CONTENTS.

Acknowledges Receipt of Circular No. 12 and has issued a Circular, (copy enclosed) embracing the suggestions

1 Enclosure

No. 40

United States Consulate General,

Shanghai, October 7th 1879

Hon. F.W. Seward

Asst. Secretary of State,

Washington, D.C.

Sir,

I have the honor to acknowledge the receipt of Circular No. 15, of date July 9th, on the subject of Consular Invoices. In pursuance of the suggestions therein contained, and the instructions in Circular No. 12 of February 13th, 1879, I have sent copies of the enclosed Circular to all the mercantile houses in Shanghai. Beleiving the contents of my circular cover the whole ground, I trust my action will be considered satisfactory to the Department.

I have the honor to remain

Your Obedient Servt

Consul General

To Merchants and Shippers of Merchandize to the United States:

Gentlemen:

In accordance with instructions received from the State Department at Washington, Shippers of Merchandise to the United States are hereby notified that hereafter invoices, when the invoice price includes all charges, must contain a clause stating that fact, viz: that they are free on board of all charges. When the invoice does not properly include all charges a specification in detail of the charges is to be included in all cases.

U. S. Consulate General,
Shanghai, October 1879.

Consul General.

Mr Wood

No. 41] October 21st 1879 United States Consulate General at Shanghai,

Mr. Bailey Consul General. to the State Department,

Subject:— Department circular No 14.

Ans Dec. 12/79

ABSTRACT OF CONTENTS.

Acknowledges the receipt of Department circular No 14.

No. 41.

United States Consulate General,

Shanghai, October 21st 1879

Hon. Charles Payson

Third Assistant Secretary of State,

Washington, D.C.

Sir,

I have the honor to acknowledge the receipt of Department - Circular No 14, bearing date June 10th 1879, enclosing a copy of a Circular dated the 26th of May 1879 from the Secretary of the Treasury in reference to the presentation and acceptance by Collectors of Customs of Landing Certificates covering Merchandise exported under internal revenue laws.-

The instructions therein contained have been noted and will be complied with in all cases in which they are applicable.-

I have the honor to be

Sir

Sir

Your obedient servant

Daniel Lo[illegible]

Consul. General

Mr Wood

No. 42] October 21st 1879 United States Consulate at Shanghai,

Mr. Bailey Consul General. to the State Department,

Subject: Acknowledging receipt of despatches.

Ans. Dec. 12-79

DEPARTMENT OF STATE
NOV
28
1879
RECEIVED

ABSTRACT OF CONTENTS.

Acknowledges the receipt of despatches No 17 18, 19, 20, 21 and 22.

No. 42

United States Consulate,

Shanghai, October 21st 1879

Hon. Charles Payson

Third Assistant Secretary of State,

Washington, D.C.

Sir,

I have the honor to acknowledge the receipt of your despatches Numbers 17, 18, 19, 20, 21 and 22, the latter dated September 3d.

Referring to despatch Numbers 18 and 19 I have to acknowledge the receipt of the several publications therein mentioned.

I have the honor to be

Sir

Your obedient servant

David Lo Brown

Consul-General

No.

Mr.

Subje

Cancel appointment + Mr. Bailey + Mr. Emery + C. D. Wood

No. 43] October 21st 1879 United States Consulate General at Shanghai,

Mr. Bailey Consul General. Avisé dec. 1879 to the State Department,

Subject: Vice Consul, Chinkiang.

DEPARTMENT OF STATE NOV 28 1879 RECEIVED

ABSTRACT OF CONTENTS.

Objections against the appointment of Mr Emery as Vice Consul at Chinkiang

No. 43

United States Consulate General,

Shanghai, October 21st 1879

Hon. Charles Payson

Third Assistant Secretary of State,

Washington, D.C.

Sir,

Referring to my No 38, of the 30th of
September, approving the appointment of Mr Daniel
A. Emery as Vice-Consul at Chinkiang, I am now
in possession of information from the Legation at Peking
which makes it seem questionable as to whether
Mr Emery should have that position.-

I believe there was a dispatch from the
State-Department some years ago, addressed to the
Legation, in effect prohibiting Mr Emery from
receiving any appointment in our Consular
Service in China.- I had no knowledge of
Mr Emery except through the Consul at Chinkiang,
who was emphatic in his endorsement and

urgent

urgent for the appointment, and I am assured that his habits are good, and that he stands well in the community at Chinkiang.-

I apprehend that Mr. Scruggs was not aware of the objections against his appointee, and therefore urged an approval of the nomination.-

Should the nomination be confirmed by the Department before the receipt of this dispatch, I will withhold the Commission and letter of appointment in the event of its being received, until I have instructions in answer to this dispatch.-

I may add that the Chinese Government is assuming a position of strong opposition to the appointment of Merchant-Consuls, and against the allowance of traders to be in charge of Consulates during the absence of Consuls, because of Merchants being too often personally

personally interested as traders in the questions they have to adjust. —

I have the honor to be

Sir

Your obedient servant

Emil L. Sala

Consul General

Ack Dec 12/79

Inclosure
Woodbury

No. 44.] October 21st 1879 United States Consulate at Shanghai,

Mr. Bailey Consul General, to the State Department, (File)

Circular Note from Chinese Government to its Ministers. -

DEPARTMENT OF STATE
Received
NOV 28
1879
RECEIVED

ABSTRACT OF CONTENTS.

Transmits Copies of Circular Note addressed by the Chinese Government to its Ministers abroad in March 1878.

Enclosure.

Six printed copies in English and Chinese of the above Circular Note.

No. 44

United States Consulate,

Shanghai, October 21st 1879

The Honorable Wm. M. Evarts

Secretary of State,

Washington, D.C.

Sir,

I have the honor to enclose, under instructions from Hon. George F. Seward, Minister at Peking, six copies, printed in English and Chinese, of a Circular-Note addressed by the Chinese Government to its Ministers abroad in March of last year.

I have the honor to be

Sir

Your obedient servant

Isaiah W. Kemp

Consul-General

Despatch No. 181.
Inclosure.

THE TSUNG-LI YAMÊN

TO THE

CHINESE MINISTER ABROAD.

Despatch No. 181.
Inclosure.

THE TSUNG-LI YAMÊN

TO THE

CHINESE MINISTER ABROAD.

Despatch No. 181.
Inclosure.

THE TSUNG-LI YAMÊN

TO THE

CHINESE MINISTERS ABROAD.

1.—Since the Treaties of Tientsin were ratified, China's relations with Foreign Powers have invariably been conducted in accordance with their stipulations. Whatever complaints there may have been on the part of Foreign Governments on this head, have, in the main, been occasioned by accidents to individuals and the incidence of taxation. As regards the first class of complaints, it must be remembered that such things may occur in any country, and that no amount of foresight can effectually guard against them; while as to taxation, it is where there are no Treaty provisions, or where Treaty provisions are read two ways, that differences occur.

2.—Treaties may be revised once in every ten years, and such additions, abrogations, or modifications as are introduced depend upon the voluntary assent of the Contracting Powers. The first revision of the British Treaty was concluded by the Yamên and the British Minister in 1869; but notwithstanding that friendly negotiations had extended over as much as two years, the British Government refused to ratify the arrangements of its Representative, and the revised Treaty has never been in force. For a year past the revision of the German Treaty has been going on. Among the proposals of the German Minister there are some to which it is impossible for China to assent; and so, although there has been much discussion, no settlement has yet been arrived at. In this matter of Treaty revision, a mutual interchange of views is a preliminary of much importance, and it appears to us that there are four cardinal points regarding which, it would seem, that we have, up to the present, failed to make the Chinese views understood. They are:—1, Transit; 2, Li-kin taxation; 3, Exterritoriality; 4, The most-favored-nation clause. We propose to state our views in connection with them, for Your Excellency's information.

3.—As regards dues and duties paid by foreigners generally, we hold that, by the Treaties of Tientsin, foreigners

爲咨行事查自天津各條約議定以來凡中外交涉事件無不查照條約各章辦理然各國亦時有謂我不能遵守條約者大抵不外洋人被虐被毆之案征收厘稅之事耳夫外國被誣枉之事係未可預知者亦係無法防範者且係無論何國均不能保其必無者征收厘稅之事或因條約未經議及而意義兩歧以致外國有是說也查條約每屆十年准修一次其如何增删改換自係出於兩國情願同治八年本衙門與英國大臣初次將英國條約應修各款議妥雖和衷商酌將及兩載之久而英國未允其大臣所擬各端是以新約未能照行近年來又有德國修約之事

德國大臣商議各端有中國萬難照允者往來論辦迄今亦無定說因思更修條約貴將兩國之意先行說明而此事內有四要端誠恐本衙門意見仍有未達明之處如貨物出入內地一也厘捐二也不歸管轄三也一體均沾四也以上四端現擬爲

貴大臣纔陳之查洋商完納貨稅一事按天津各條約洋商准運洋貨進中國口岸進口時照則完納正稅洋商亦准將已完正稅之洋貨復運外國一面領回所完之稅銀洋商亦准將已完正稅之洋貨運入內地其運入內地時或准逢關納稅遇卡抽厘與華商一律辦理或准照則完納子口稅請領稅單運入內地無論所往之地遠近即可將地名呈

(1) Can import foreign goods into China on payment of the Tariff duty;

(2) Can re-export duty-paid foreign goods to a foreign country, and obtain drawback of the import duty originally paid;

(3) Can convey duty-paid foreign goods into the interior, and either, as Chinese merchants do, pay duties at each Custom-house and taxes at each barrier passed, or, by payment of the Tariff transit due, can free their goods from such duties and taxes *en route* to any places, however distant, named by them, and entered in their transit certificates;

(4) Can purchase native produce in the interior, and, if ~~entended~~ intended for foreign export and supplied with transit certificates, can bring it to a Treaty port, exempt along the route from all duties and taxes, by simply exhibiting the certificates at each Custom-house and barrier passed, it being merely charged the Tariff transit due at the "last barrier" (*i.e.*, the barrier nearest the port); or, if not provided with transit certificates, then such produce has to pay such duties and taxes to which Chinese merchants are liable;

(5) Can export native produce on payment of an export Tariff duty;

(6) Can convey native produce from Treaty port to Treaty port on payment of an export duty at the port of shipment, and a coast trade half duty at the port of discharge;

(7) Can, after payment of the coast trade half duty as above, convey such native produce into the interior on the payment of the duties and taxes at the Custom-house and barrier passed *en route*, in the same manner as Chinese merchants.

The above is, in a general way, what foreigners trading in native and foreign goods are entitled to as regards payment of duties, in accordance with Treaties and regulations.

4.—As regards transit inwards, however, foreigners have maintained that to say goods are exempted *en route* from a port to the place mentioned in the transit certificate is not enough. They have held that foreign goods which have once paid transit dues cannot subsequently be called upon to pay any local charge whatever. To this interpretation we cannot agree. By the Treaties, foreigners have the option of taking out, or not taking out transit certificates. If transit certificates are applied for, the Treaty stipulations require that the place to which the goods are going must be named and entered in the certificate. Why is this so? It is because the certificate is only to free the goods from the Treaty port to the place named in the certificate; arrived there, the certificate becomes waste paper, and the goods thereafter differ in no respect from

明填入稅單之內中途逢關遇卡均免重征洋商亦准赴內地置買土貨倘係轉送外國之土貨或請有單照則可將所辦之貨運至通商口岸沿途各子口均祇查驗單照逢關遇卡一概免征至近口末卡照則完納子口稅若未請有單照則准逢關納稅遇卡抽厘照華商一律辦理洋商亦准將置買之土貨於出口時照則完納出口正稅後轉送外國洋商亦准將土貨由通商此口運至通商彼口在下船之口完納出口稅在轉運貨之口完納復進口半稅洋商亦准將復運通商他口之土貨在復進通商之口完納半稅後將土貨運入內地逢關納稅遇卡抽厘與華商一律辦理此乃洋商現在販賣洋土各貨照條約章程完納稅餉之大概情形也至洋貨運入內地一節洋商有言以上所云自某口至單內所指之某處中途不重征一語未盡其事據稱已完子口稅之洋貨日後無論在何處遇何項稅捐不應向其抽收而本衙門不能以此解爲然因思照條約章程洋商運洋貨入內地或請領稅單或不請稅單均聽自便如請領稅單則應將運赴內地何處呈明填寫稅單之內其故何在乃因稅單祇能保單內之貨由通商口岸運送單內所指之地沿途免征厘稅其貨已經運至所指之地稅單即應作爲廢紙嗣後該貨即與無稅單之貨無異再洋商請領稅單或不請稅單既聽其自便則有領單之貨亦有無單之貨同時在內地一處者領單之貨係由口岸運至單內所指之地沿途稅厘一概照約准免無

ordinary uncertificated goods. Again, the foreign merchant, having the option of taking out or not taking out transit documents, it thence results that foreign goods of two kinds are found at the same place in the interior at the same time, namely, certificated and uncertificated. The certificated goods travelling in a given direction under certificate from the Treaty port to a place named, are by Treaty exempt from taxation everywhere *en route*; while the uncertificated goods, transported in any direction at pleasure, are everywhere liable to the incidence of local taxation. When the certificated goods have arrived at their place of destination, and by the cancelling of the certificate have become uncertificated, they, like all other uncertificated goods, are thenceforth liable to taxation.

The certificate once cancelled on arrival at the place of destination, how can it be possible to distinguish, among equally uncertificated goods, which had paid and which had not paid transit dues? It is evident, therefore, that complete exemption from taxation everywhere, and for all future time, is not the meaning of the Treaties, but simply that goods are to be freed from all taxes *en route*. In a word, as we understand the inward transit privilege, a certificate only protects goods from charges *en route* from port to place; but this is already a great privilege, for on payment of transit dues, the foreigner can at pleasure send his goods to any market, however distant, without further liability to taxation.

5.—As regards transit outwards, foreigners have held that goods may be brought down under transit certificate even when not intended for foreign export, but meant for resale in China; and have gone so far as to say that, even without certificates no tax ought to be charged in the interior on goods ordinarily exported to foreign countries. Now, as Chinese merchants have to pay all taxes *en route*, it is obvious that the only way foreigners could bring down goods free would be under certificates; and therefore, without certificates, goods must pay, no matter what may be their subsequent destination. And again, since native trade would be subjected to unfair competition if foreigners were permitted to bring down produce under transit certificate and then send it to another part of China for sale, it follows that the produce that is entitled to transit privilege can only be such produce as is intended for foreign export. In a word, as regards native produce outwards, the case is just the same as with foreign merchandise inwards, the transactions differ, but the amount of duty charged is the same; for, just as a foreigner can take foreign goods to any part of China on payment of a full and half duty, so he can go to any part of China, and thence take Chinese produce to a foreign country, on payment of a similar full and half duty.

單之貨各處稅厘皆應完納但有單之貨已至所指之地其單即作爲廢紙該貨遂與無單之貨無異應與無單之貨一律遵完稅厘則稅單到所指之地既經繳銷各貨物均無稅單是完過子口稅之貨與未完過子口稅之貨何所區別可知永遠免徵並非係約本意亦祇有中途免徵而已總之洋貨運入內地一事據本衙門之意稅單祇能保其單內所開各貨由口至所指之地沿途免徵耳洋商既准於完納正稅外祇須再納一子口半稅即准運入內地無論遠近銷貨各處其自由之益已屬不少矣至運土貨出內地一事洋商又言土貨雖非運往外國實係本地出售之物亦可請領單照運口甚至有言洋商尋常販運至外國之土貨雖無單照內地亦不應抽收厘稅各等語因思華商運土貨於沿途各厘稅均應完納則洋商運土貨到口欲免沿途抽收必須携帶單照方可獲免是以凡屬無單之貨無論作何銷售均應遵納厘稅再洋商領單運土貨到口如准轉運中國他處銷售不送外國則洋商之貨得免而華商之貨不得免其於華商生計不無妨碍是以必須運赴外國之土貨方准領單運口總之洋商之運土貨與洋商之運洋貨其事殊其稅則一蓋洋貨入內地無論何處祇須完納正半兩稅即可隨意販運其土貨出內地運送外國則准洋商赴內地無論何處置買亦係一律照完正半兩稅也再查厘捐一事外國常以爲不然殊不知在中國之華商亦非其所願也而

6.—Li-kin is continually objected to by foreigners. But is it not just as well known that Chinese merchants are opposed to it too, and that the Government regards it only as a temporary expedient? Independant Powers must be guided by national necessities in fixing their taxation. In these troublous times the demands on the Government are very heavy, and it is impossible to avoid having recourse to special measures; we maintain that all such matters should be left to be determined by China herself, and that the foreigner has no more right to interfere with or object to them than China would have to interfere with or criticise the action of a Foreign Government in raising loans or increasing taxes. If foreign merchants desire to escape the Li-kin, they can escape it; all they have to do is to supply themselves with transit certificates when taking foreign goods into the interior, or bringing native produce out of the interior; if they do not carry transit certificates they must pay the Li-kin, for, in the absence of transit certificates, all goods are alike and indistinguishable, and must in the interior pay Li-kin, according to the rule of the locality.

7.—As regards jurisdiction, *i.e.*, exterritoriality. By the Treaties, foreigners in China are not amendable to the jurisdiction of the Chinese Authorities, *i.e.*, they are exterritorialized. As they have disputes among themselves, their own Authorities are to settle them; if they commit an offence, their own Authorities are to punish them according to their own national laws. But foreigners claim much more than this; they interpret this exterritorial privilege as meaning not only that Chinese officials are not to control them, but that they may disregard and violate Chinese regulations with impunity. To this we cannot assent. China has not by any Treaty given foreigners permission to disregard or violate the laws of China; while residing in China they are as much bound to observe them as Chinese are. What has been conceded in the Treaties in this connection is merely that offenders shall be punished by their own national officials, in accordance with their own national laws. For example, if Chinese law prohibits Chinese subjects from going through a certain passage, foreigners cannot claim to go through that forbidden passage in virtue of exterritoriality. If they go through it, they thereby break a Chinese law, their own [redacted] officials are to punish them in accordance with such laws as provide for analogous cases in their own country. In a word, the true meaning of the exterritoriality clause is, not that a foreigner is at liberty to break Chinese laws, but that if he offends, he shall be punished by his own national officials.

Again, seeing that China has agreed that the judicial powers shall be exercised by foreign Consuls within Chinese territory, Foreign Gov-

朝廷視爲暫行權宜之舉因思自主之國訂其徵課應視時之所需而現在時事多艱需款甚鉅不得不格外設法籌畫至如何籌款之處應由中國作主外國之不應干預議以爲非亦與外國自行籌畫借款加賦等事中國不應干預評論無異也洋商運洋貨入內地或運土貨出內地如欲免厘祇須請領單照方能得免如無單照則凡有貨物在內地既不能區別各處厘捐均應遵照完納又查管轄一事照約洋人在中國不歸中國地方官管轄其有自相爭訟之事則由其本國官料理如其犯法亦由其本國官按本國律懲辦但外國猶有言也謂按照此不歸管之條非特中國官不應約束洋人即洋人任意違背中國章程亦無懲辦之條矣而本衙門不以爲然因查各條約內中國實未允有洋人任意違背中國法律之條洋人居住中國者則應以中國之章與華民一體遵守而條約內所允者不過以洋人犯法係歸其本國官按本國律法辦理而已今設言之譬有路一條按中國律法華民不准行過洋人不得因有不歸管之條任意於此禁路來往如違而逕過者則應由其本國官引照本國相同律例比擬懲辦總之此條用意之所在非准洋人任意違背中國律條第以洋人如有犯事者應歸其本國官懲辦耳且思此懲辦之權中國既允由領事官在中國境內行用仍應由外國特選妥實人員充當此職方爲允當乃各國之內有數國以商人派充領事官之職者查領事官分內所司之事如收發船隻牌

ernments should, on their side, take care that none but good and reliable men are appointed to these posts. Several States, however, appoint merchant Consuls. Now, in so far as concerns that part of a Consul's duty which comprises the reporting and clearing of ships, and the shipping and discharge of sailors, China does not object to its being discharged by merchant Consuls. But in China a Consul's duties comprise judicial functions as well, and the importance of such functions is such as to seem to demand the appointment of *bonâ fide* officials to Consular posts; moreover, where cases regarding joint investigation occur, it is neither convenient nor dignified for a Chinese official to sit on the bench with a merchant Consul who may have been fined for smuggling the day before, or who, in his mercantile capacity, may, perhaps, be personally interested in the case at issue.

8.—The most-favored-nation clause is found in all the Treaties, and it is well that it should be so, for it is difficult for China to distinguish between foreigners, or say which belongs to which nationality; and so much is this so, that even non-Treaty Power foreigners are trusted like the others. The object of the foreign negotiator in introducing this clause was to prevent his own nationals from being placed at a disadvantage as compared with others, and to secure that all should be equally favored. Now this is precisely what China desires. But Foreign Governments, although their objects in negotiating for the most-favored-nation clause were similar to those of China, are not always fair in their interpretation of it. For example, if China, for a consideration, grants a certain country a new privilege on such and such conditions, this would be of the nature of a special concession for a special consideration. Should other countries come forward and, in virtue of the most-favored-nation clause, claim to participate in the new privilege, although China need not necessarily exact a similar consideration in return, yet it would be only just to expect that in enjoying the privilege they would consent to observe the conditions accepted by the Power to which it was originally granted. But, far from this being the case, there are some who, while demanding the privilege, refuse to be bound by the conditions attached to it. This is the unfair interpretation to which China objects. In a word, as regards this most-favored-nation clause, we hold that if one country desires to participate in the privileges conceded to another country, it must consent to be bound by the conditions attached to them, and accepted by another.

9.—Over and above the four points commented on, there is the Missionary question. China, recognizing that the object of religious systems is to teach men to do good, has by Treaty assented to Missionaries

照報關請單屢辭水手等事商人雖無不可料理中國並不以商人代辦此等事爲非惟領事官猶有審鞫之責事關緊要似應派委眞正官員充當此職方足以昭愼重況遇應行會訊之案出地方官應與領事官公同審斷設今日在坐之領事官即前日因偷漏受罰之商人或案情與其本行有關涉既屬不成體統亦有諸多未便又查優待之益一體均沾一節各國條約內皆有此條原因各國人民中國難於區別某人係某國之人以致將未經換約各國之人民亦一律看待在中國以約內有此一條亦無不可行之事查議訂此條時在議約者本意係不令其本國商民較他國有不及之處務令一律沾受益處此誠中國昭示公溥之處也惟議定此條時外國與中國之意雖同而於証釋之中往往有失於公允之處設如有某國特允從中國一事中國因其特允之一事隨即於通商事內酬一優待之新條並訂以應守之新章以昭限制此固於優待之益酬之於允我一事之國者也而他國亦欲憑此均沾之條籍索此可沾之益在中國雖不必以允我之事向其比例而求之而既欲同沾是益者亦必宜同守是章則一律共遵方昭公允乃止知沾其利而不復守其規是直欲受優待之益而不願守優待之章中國所謂証釋一體均沾之條有失公者此也總之均沾一事此國既欲得彼國同一優待之益則必宜同守其章始不失爲公允此外猶有教務一節中國因各教本係令人行善之事故於各約內允從

coming to teach their doctrines in China, and has also guaranteed protection to them and to their converts. But among the Missionaries are some who, exalting the importance of their office, arrogate to themselves an official *status*, and interfere so far as to transact business that ought properly to be dealt with by the Chinese local Authorities; while among their converts are some who look upon their being Christians as protecting them from the consequences of breaking the laws of their own country, and refuse to observe the rules which are binding on their neighbours. This state of things China cannot tolerate or submit to. Under the exterritoriality clause foreigners are to be dealt with by their own national Authorities; but, as regards Chinese subjects on Chinese soil, it is only the Chinese Authorities who can deal with them; and Chinese subjects, whether Christians or not, to be accounted good subjects, must render an exact obedience to the laws of China. If any offend against those laws, they must, one and all, Christians and ~~not~~ Christians alike, submit to be dealt with by their own native Authorities, and the Foreign Missionary cannot be permitted to usurp the right of shielding them from the consequences of their act.

10.—In order that negotiations for Treaty revision may be facilitated, what is required is reciprocal consideration and mutual forbearance.

We accordingly address to Your Excellency this communication. To recapitulate:—

(a) In the matter of inward transit, we hold that certificates only cover goods from a Treaty port to the place named in the certificate, exempting them from all taxes *en route*, and that, arrived at that place, they thereafter differ in no respect from uncertificated goods, and must, like all uncertificated goods, pay whatever charges the barriers passed thereafter may collect.

(b) In the matter of outward transit, we hold that produce not yet bought by foreigners, or bought but not covered by transit documents, is liable to all local charges; and that goods brought down under transit passes for foreigners, must be sent to foreign countries, and cannot be allowed to go to other Chinese port for sale, to the disadvantage of native-owned goods which have not had the benefit of transit pass.

(*c*) In the matter of Li-kin, and taxation generally, we hold that China, as an independant State, has the right to levy whatever taxes she pleases, in whatever manner she may think best; and we consider it unfair on the part of other Governments to question our proceedings, or put difficulties in our way, seing that we only collect special taxes because special circumstances call for them.

准其前來傳教並凡傳受學習之人一體允爲保護惟傳教者有時崇其教而自尊儼若官長遂藉以干預地方官應管之事其習教者有時以爲既入其教卽奉教爲護符或敢於不遵國法以民人素守之科條而故爲干犯此二端實亦我中國所不能允服而聽從者除外國官員按照專條管理外國人外凡遇中國界內止有中國官可以管理中國百姓而中國百姓無論入教與不入教均須一一遵守中國之科條法律始爲安分無過如有犯案由中國官不分民教一律辦理外國傳教士不應護庇攙越查修約一事原係兩國互相體諒庶易商辦相應咨行

貴大臣查照所有洋貨入內地一事據本衙門之意稅單祇能保單內所開之貨由通商口岸至單內所指之地沿途免征稅厘若已到單內所指之地後該貨卽與無單之貨無異再遇關卡則應照無單之貨一律遵完稅厘土貨出內地一事據本衙門之意土貨尚未由洋人購到者或已經購買而未領有單照者各處稅厘均應遵照完納至洋人請領單照所運之貨必須全送外國不得轉運中國他口出售致與華商販運無單各貨之生意有礙厘捐一事據本衙門之意中國既爲自主之國其如何籌定徵收應聽自便而此時格外籌畫實因有格外之需如他國前來干預阻礙中國實不能以爲公允也管轄一節據本衙門之意按各條約內不歸管之條非准由洋人將華民應遵之章任意違背至

(d) In the matter of jurisdiction, we hold that the exterritoriality conceded in the Treaties does not free the foreigner from observing the rules which Chinese have to observe; and, seeing that Consuls have judicial powers, we think the importance of the trust requires that they should be *bonâ fide* officials and not traders.

(e) In the matter of the "most-favored-nation" clause, we hold that when any country claims to share the privileges conceded to another, it is bound to observe the conditions accepted by that other likewise.

(f) In the matter of the Missionary question, we hold that within Chinese territory it is only the Chinese officials who can be allowed to exercise authority over the Chinese people; and that, Christians or not Christians, Chinese subjects must, one and all, pay due respect and obedience to the laws of China.

What China wishes to do is to carry out the Treaties in such a way as to give full effect to all their stipulations, and place all foreigners in China on the same footing; but she cannot allow those Treaties to be wrested to mean something essentially unfair to the Chinese people, nor in attempting to adjust national resources to national wants can she assent to any interference with her sovereignty as an Independant State. What the Treaties aim at is the maintenance of peaceful relations, and it will be found that nothing contributes to this end more powerfully than a due recognition by either State of the independance and sovereignty of the other.

Your Excellency will go in person to the Foreign Office and read this despatch to the Minister of Foreign Affairs, and, if requested, leave a copy.

於領事官既有審鞫之權則應委派眞正官員充當此職不應以商人代充以昭愼重也
均需一節據本衙門之意此國請沾彼國所得之益則應同守彼國所遵之章也教務一
節中國界內祇有中國官可以管理中國百姓而中國百姓入教與不入教者均應遵守
中國法紀夫中國於邦交之事所欲者恪遵條約章程辦事耳一則按條約之意儘量而
爲之一則舉友邦之人一律而優待之惟邦交之事如此若於條約字意之外爲外國附
會强解添註是於中國人民增其不公不服之處若使中國征課權宜之法爲外國阻碍
而難行則按中國自主之權而論亦我中國不允不服之事也各國條約原有修好及永
遠相安之意而其永遠相安之道所重者則在彼此互從各國各有自主之權耳此文並
洋文應由
貴大臣躬赴
外務衙門向
外務大臣誦聽其顚末如欲閱看卽錄送一分可也須至咨者

Ans as to Mr. Goldsborough

c 11/79 endorsement

Wood

No. 45] October 21st 1879 United States Consulate General at Shanghai,

Mr. Bailey Consul General. Avoid use in lieu letter to the State Department,

Subject:— Vice Consul, Amoy.

ABSTRACT OF CONTENTS.

Concerning the re-nomination of Mr. Stevens as Vice Consul at Amoy.—

No. 45 United States Consulate General,

Shanghai, October 21st 1879

Hon. Charles Payson

Third Assistant Secretary of State,

Washington, D.C.

Sir,

Referring to Mr Consul Goldsborough's despatch No 213, I have the honor to remark that so far as Mr Stevens fitness for the position of Vice-Consul is in question, I could fully & endorse and approve his re-nomination.-

The Chinese Government, however, is strongly opposed to Merchants acting as Consuls, and, as will be seen by the enclosure with Mr G— Goldsborough's No 217, other Merchants are opposed to rival merchants performing Consular duties.-

This is a question which is becoming more and more an important one, and to which I may refer hereafter.— Otherwise I believe

Mr

Mr Stevens is fitted for the position, for which he is re-nominated.

I have the honor to be

Sir

Your obedient servant

Consul General

Mr Wood

No. 46] Oct 21st 1879 United States Consulate at Shanghai,

Mr. Bailey Consul to the State Department,

Subject:— Returns Correspondence 3d Qr 1879

Rec'd Dec 12/79

ABSTRACT OF CONTENTS.

Forwards returns of Register of Correspondence

3d Qr. 1879.

No. 46

United States Consulate,

Shanghai, Oct 21st 1879

Hon. Charles Payson

Third Assistant Secretary of State,

Washington, D.C.

Sir,

I have the honor to transmit herewith Copies of the Register of Letters Sent and Received by this Consulate General for the 3d Quarter 1879.

I have the honor to be,

Sir,

Your obedient Servant

Consul General

Inclosures

No. 1. Letters Sent

No 2. " Received

(Form No. 121.)

NAMES of all Deceased American Citizens, including Seamen or Mariners, together with the value of the personal effects belonging to them, and taken possession of by or deposited with U. S. Consul Shanghai, from July 1st to September 30, inclusive.

DATE OF DECEASE.	NAMES OF PERSONS.	OF WHAT PLACE A NATIVE OR RESIDENT.	IF A SEAMAN, TO WHAT VESSEL BELONGING.	WHERE DECEASED.	VALUE OF EFFECTS.	DISPOSITION MADE THEREOF.
July 14	Chas. S. C. Hudson	F. B. Citizen U.S.		Shanghai	none	
" 18	Thomas H. Hutchinson	United States		"	none	
" 19	Herman Lehmann	Germany	Sacramento	Whangpoo River	—	In hands of Captain
" 23	William Smith	F. B. Citizen U.S.		Shanghai		In hands of Executor
" 25	Thomas Allen	"		"		"

Frank H. Hall
U. S. Consul.

U. S. Consulate General
Shanghai, China

Enclosure No. 2
with
Despatch No 50

Form No. 124

Ask Thank C. P. 12/19 Wood

No. 47] 22 Oct 1879 United States Consulate General at Shanghai,

Mr. Bailey Consul General. to the State Department,

Subject:— Slavery in China

DEC 1

ABSTRACT OF CONTENTS.

Transmitting report upon Slavery in China and commenting thereon.

Sent this communication to Mr. Bailey for information. Sept. was Mr. Bailey for Mr. Wade. Sent.

Inclosures

No 1 to 11. Eleven sections of Chinese law of Slavery. being extracts from Staunton's Penal Code of China.

No. 47

United States Consulate General,

Shanghai, 22 October 1879

Hon. Charles Payson

Third Assistant Secretary of State,

Washington, D.C.

Sir,

I have the honor to enclose a report
1/ "I have thought fit to make upon
the subject of Slavery in China;-
with enclosures of No's 1 to 11 inclusive,
containing extracts relating to
the Chinese law of Slavery as translated
by Sir George Thomas Staunton.
His translation is, I believe, the only
one extant and accepted by Chinese
Scholars as accurate and trustworthy.
I am under great obligations to
Dr H. Latham of this office for his
valuable assistance and research
upon

upon the Subject of this despatch.
If Chinese emigration to the United
States is to Continue and increase,
with Slavery, or quasi Slavery, and
Concubinage inbred and permeating
its every feature and Organization
so that they may be said to be an indissoluble
part of its present system, is it not a subject
to which American Statesmen should turn their
attention with same degree of anxiety ?
Is not this Chinese system of Concubinage,
which is now being introduced into America
through Chinese emigration but a twin
Sister of polygamy, that other "relic of barbarism"
now so firmly rooted in the heart of the American
Continent, and towards the extermination of
which the Government is now bending its energies

I have the honor to be,
Sir,
Your obedient Servant
Daniel L. B. Bailey
Consul General

United States Consulate General
Shanghai China
October 22d. 1879.

Slavery in China

That Slavery exists in China is known to every one who is at all familiar with the institutions of this Empire.

All of the prominent writers upon China and the Chinese, from the time of Marco Polo to the present, mention Slavery, but no one of them, so far as I know, gives its legal or social Status or attempts to give any idea of the extent to which it prevails. In view of the fact that

China

China, with her vast population, is assuming more intimate relations with the rest of the world, and in view of the increasing number of her people who are now going out into other Countries, and of the Swarms that may go in the future + seeking labor, carrying with them their Civilization and its institutions, I have thought this subject of sufficient importance, to the people and the Government of the United States, to warrant its thorough investigation and a report thereupon to the Department -

History

History of Chinese Slavery :—

Slavery existed in the earliest period of Chinese History, but there, as in foreign works on China, nothing is said as to its origin or developement. It may have originated here as with all people in their primitive stages, in subjugation and Conquest, or, it may have sprung entirely from the organization of the Chinese family — This patriarchal family system gives the head of the family absolute power over every member. It makes him the arbiter of the liberty and lives of all its members.

He may chastise, mortgage, sell or even kill any or all of them.

The maxim is that "As the Emperor should have "the care of a father for his "people, a father should have "the power of a Sovereign over "his family" (Davis "The Chinese" Vol I. Pge 288.)

To fully understand this maxim it must be borne in mind that the Chinese idea of a Sovereign is that of an absolute one, with no limit or restraint to his acts, but the bounds of human endurances.

V. Möllendorf in an essay on Chinese family law, Pge 18, says:

says: "As was the rule according
"to the Roman law of the time
"before Justinian, all persons,
"who depend on a pater familias,
"either grandfather, father, uncle,
"mother or husband, stand,
"in China under patria potestas;
"such persons are therefore either
"the wives and daughters or more
"distant descendants on the male
"line. The patria potestas is
"the same as the domini potestas,
"the power of the master over
"his slaves, according to the +
"ancient Roman law. — The
"patria potestas over Children,
"whether legitimate or adopted, is
"unlimited. The father can
"do with them as he likes; he
may

"may naturally Chastise, but even
"Sell, expose or Kill them."

The absolute power of the head of the family is therefore such that it amounts to slavery. It has became a custom for the poor to mortgage or sell their Children to the rich conditionally or absolutely in great numbers under this law

"According to its nature
"the datio in adoptionem is,
"properly speaking, a sale
"(Venditio) to which only the
"Consent of the patres
"familias is required. (Sic.
"V. Mallendorfs Family law of the
"Chines pge 22) This is the testimony
of

of nearly all those who have
written of China. Van Möllendorf,
quoted above says, that E.H. Parker,
of the British Consular Service,
estimates, that fifty per cent of
all families in China have children
that have been acquired from
other families by adoption or,
to designate it more specifically,
by purchase. "As the adoption
"of children and the purchase of
"inferior wives, or Concubines, is
"a transaction of constant occurrence
"and one, in which the real parents
"lawfully may, and usually do,
"receive a pecuniary Consideration
"it can scarcely be denied that
"the Sale of Children in China is
"practically Allowed". (Note: in Sect CCLXXV. Staunton)

The

The title of property in these Children is Cantained in a bill of sale duly signed and sealed and in which the same term is used as in the purchase of horses Cows or any other species of property.

"The Chinese use the same term"
"to indicate the sale and the purchase
"of Children and wives that they use
"when speaking of the sale and
"purchase of land Cattle or any
"description of property" (Doolittles'
Social life among the Chinese. Vol. II.
page 209)

I am inclined to believe that, although the origin of Chinese Slavery may have been by Capture in War, the same as in all barbarous ages of races

of

of people, it owes its existence and character, at the present time, to this Patriarchal family system. But for this, as the race advanced in civilazation and wars ceased, and the arts of peace were + cultivated, and laws for the preservation of life, property and the rights of the individual subject were framed, Slavery, as originated by Capture, must have died out.

Dr Williams, in the "Middle Kingdom" in. Vol. I. Page 296, 297 and 298, shows the extent and power of these Patriarchal institutions of China, and by what influences of the State, and of education, they have been perpetuated and

and strengthened.

Under this absolute family law where a country is over populated and where the imperative demands of consumption press the possibilities of production to the extreme, where large masses of the people are but a step from starvation, and where there is such a great difference in the conditions of classes of people, the necessities of the poor and the inclinations of the rich would make the absolute and conditional sale of people, not only possible, but probable. In fact such is the daily result.

I may here quote "Du Halde Vol. page

page 277. where he says:

"Misery produces a prodigious
"multitude of Slaves or rather
"Persons who mortgage themselves
"with a condition of redemption,
"a thing very common with the
"Chinese; for among the Tartars
"they are truly Slaves. - A great
"number of man- and maid-
"servants are so bound in a
"family, though there are some
"to whom they give wages as
"in Europe. - A man
"sometimes sells his son and
"even himself and his wife,
"at a very moderate price, but
"if he can, he chooses to pawn
"his family only. - It often
"happens that a great Tartarian

Mandarin

"Mandarin, an Chinese Tartarised
"(that is listed under Tartar Banner)
" who has a parcel of Slaves for
" his Servants, is himself a
" Slave to same Court-Lord;
" to whom from time to time
" he makes a present of
" Considerable sums. - A poor
" Chinese, when he gives himself
" to a Tartarian Prince, if he
" has merit, may hope to be
" a great Mandarin very soon;
" but this is not so Common under
" the present Dynasty, as formerly;
" if he be deprived of his office
" he returns to his master to
" serve in Certain honourable
" functions
" When rich folks marry their

" their daughters they give them several
" families of Slaves in proportion
" to their wealth "

The head of the family may justify the absolute sale of a member by the fact that the person, as the well fed and clothed Slave of a rich family, is better off than as a freeman where he daily feels the gnawings of hunger and shiverings of cold for want of the commonest food and clothing

Whatever may be the justification sought for by the individual parties to such sales and purchases, and by a Government which allows such practices,

the

the facts are, that so far as all history goes Slavery, by Sale and mortgage, has + always existed and now exists in all parts of China.

Character of Chinese Slavery:

There are four distinct Classes of Slaves.

1st Slaves of the Imperial + Household

2d Concubines

3d Slaves held for labor

4. Slaves held for purposes of prostitution.

The persons of the first Class are Eunuchs and used exclusively in the Imperial families. This + prohibited by law for any other persons to buy rear or use this Class

Class of persons.

Section CCCLXXIX of the Penal Code of China, as translated by Sir George Thomas Staunton, reads:

"No private individual nor any "officer of government, excepting only "the princes of the imperial family "shall presume to educate Castrated "Children, in order to their being "employed as eunuchs in their "domestic establishments; every "breach of this law shall be "punished with 100 blows and "perpetual banishment to the "distance of 3000 li; and the "Castrated Children shall be sent "back to the families whence "they were taken or to which "they belonged."

Mar Sent

Mr Stent of the Imperial Customs Service, who has resided in Peking for some years, in a paper on Eunuchs read before the Asiatic Society in 1877 gives an account of this Class.

"In China, as elsewhere, Eunuchs
" are in general made in order to
" qualify them to act as palace
" Servants, and occasionally
" as palace executioners. They
" may be kept only by certain
" members of the imperial family
" and in the palaces of the eight
" hereditary princes whose
" ancestors assisted in establishing
" the present dynasty. The Emperor
" has 3000 in his Service, exclusive
" of 18 Castrated Lamas who act

as

as domestic Chaplains; each
prince of the blood and imperial
princess is obliged to maintain
30, and so on through the
different grades, the number
diminishing as the distance
from the head of the reigning
house increases. Every fifth
year each prince supplies eight
young eunuchs for the palace,
but as this Contribution does
not by any means meet the
demand, the general public
is called on to send in adults
or adolescents as Candidates
for the painfully acquired
honor of palace employment.

As a matter of fact there is
no dearth of persons willing to

undergo

submit to castraction. Boys
are compelled by their parents
to offer themselves; while, as
to adults, men who are at
once poor and lazy are
tempted by the certainty of
an assured income with
little or nothing to do for
it, and men with a peculiar
form of ambition are seduced
by the mystery and importance
of the duties supposed to be
confined to eunuchs. Thus
it happens that at the present
moment some of the eunuchs
in Peking have wives and
families. But when a eunuch
dies he is buried not with his
family, whether he has one or
his

his sons or not, but in a place
specially set apart, whither every
Spring and Autumn a body of
eunuchs repairs to offer those
Sacrifices which in the ordinary
course of life are offered by
Children to the manes of
their fathers.

In former times this was an important
class of persons. They had a
large part in the Control of
the Government, under some
of the Emperors they had the
entire Control of affairs. ≠
They formed Conspiracies for the ≠
assassination of Ministers, heirs
to the Throne, and even of ≠
Emperors, which were sometimes
successful. Under the Tartar
rule

rule, however, they have not been able to exercise much ± influence, but from their ± positions within the imperial palaces they may at any time be the cause of important changes.

The 2d Class. Concubines.

This is a numerous Class. Every man, who is able to buy and maintain, has one or more Concubines. These are invariably the subject of bargain and sale, and, as quoted above from Doolittle, there is a regular bill of sale given and the term "sale" is used.

Davis in "the Chinese" Vol I Pg 268 says:

" says: "A man is even able
" to sell his children for slaves
" as appears from Canstant +
" practice. How completely
" the children of concubines
" pertain to the lawful wife is
" proved by this passage in
" the drama of "An Heir in old
" age", where in addressing his
" wife the old man says, +
" "Seaou-mei is now pregnant,
" whether she produces a boy or
" a girl the same will be your
" property. You may then
" hire out her services or sell
" her, as it best pleases you".
" The handmaids are in fact
" only domestic slaves."

The buying of young girls

of

of poor people and rearing
and educating them to be
sold as concubines is an
extensive business.

" The cities of Yang chau and
" Suchau are famous for
" furnishing great numbers
" of concubines for which
" purpose they bring up good
" handsome young girls,
" whom they buy up elsewhere,
" teaching them to sing, to
" play on music and, in short,
" short, all sorts of accomplish-
" ments belonging to young
" gentle women, with a view
" to dispose of them at a
" good price to some rich
" Mandarin (Du Halde Vol I pg 305)

A concubine is always a subject for sale or hire with the exception, however, that if the original bill of sale stipulates that she is sold only to be used as a concubine, she cannot be sold to be a labor slave or to be a prostitute.

She has no voice in the management of the house; she cannot control her own children. She is not only a slave to the passions of her master, but she is a slave to the envy, jealousy and hatred of the wife of the master.

She may be chastised by either

either, and may be made to do household work. This is what she is liable to. Her ordinary lot is however, far different. If her master is rich she is dressed finely, loaded with jewelry, has several servants, usually slaves, at her service, and has a far easier life than the wife of the house.

There are no limits to the supply of female children for this purpose. The poor are anxious that their female children, when sold, shall become concubines rather than labor slaves or prostitutes. This desire, no doubt, arises in part from the natural

(parental

parental solicitude that their offspring may be happy and prosperous, but in part also from the fact that as a + concubine of a rich man she can help her poor relatives.

The emperor sets the example and creates the fashion for his + people in this matter.

Williams in his "Middle Kingdom" Vol I. Pg 318 says: "Every third "year his Majesty reviews the "daughters of the Manchu "officers, over twelve years of "age, and chooses such as "he pleases for Concubines. "There are only seven legal "Concubines, but an unlimited "number of illegal."

In

In all parts of China large
numbers of the poor people
either Strangle expose or sell
their female Children at birth.
It is said by Doolittle, Abel,
Barrow and Bowring that
this practice prevails to a
frightful extent.

A writer in the China Review
Vol: 2. Pge 55 (July 1873 - June 1874)
estimates that of the entire number
of female Children born in
certain provinces, twenty five
per cent are thus disposed of.
Many girls are sold at a
later age when they begin
to develope uncommon beauty
of features or forms.

The 3d Class, that of General
(slaves

Slaves, is also numerous,
wherever in the Empire there
is poverty and wealth there
Children are sold and bought.
The females in this class +
largely preponderate. +
Male Children can not be
so readily bought. They
are more profitable to the
parents to keep. There is
a wide field of labor +
awaiting them at higher
pay. They cost no more
to rear and they perpetuate
the family name, watch
and care for the family
tombs and burn incense
and worship before the
ancestral tablets.

A daughter

a daughter on the other hand costs just as much to rear and educate as a son, when she marries, she has to carry clothing furniture and presents with her, and she takes and perpetuates the name of another clan, and worships before other ancestral tablets; therefore she is not desired and is to be gotten rid of as a burdon.

If there have been three or four sons before, then a male child may be exposed or sold or given away at birth.

This however, in after years, when poverty has reduced the family to extreme distress,

that

that the sons, wives, concubines and even the head of the family is mortgaged or sold.

Male and female slaves labor in the fields, especially in the Cotton, Tea, Rice and Silk districts.

Others are used in the ± manufacture of various goods. Large numbers of all ages may be seen in the cities at all trades. Many are expert mechanics, same hand till certain ± debts are discharged, others for life.

I am informed by good Chinese authority that ± almost every house of any wealth

wealth has several female Slaves as house Servants.

In as much as the 'Pater Familias' can transfer his absolute authority, - "the authority of the master over his Slave" -, with the person, and in as much as the person so transfered owes all the obedience and respect to the new Pater Familias that he did to the old, there is little resistance as a Slave. In case there is, the law assists the master in enforcing obedience and respect; and, at the request of the master, will inflict punishment or assist in reclaiming fugitives.

There is abundant proof of this in the Penal Code of China,

before

before quoted, viz:

Section CXVI. "If a female slave
" deserts from her masters house,
" she shall be punished with
" 80. blows, or with 100 blows,
" if she contracts a marriage
" during such absence, and in
" both cases she shall be restored
" to her master.-
" Whoever harbours a fugitive wife
" or slave or marries them, knowing
" them to be fugitives, shall participate
" equally in their punishment,
" except in Capital Cases, when the
" punishment shall be reduced
" one degree.

The slave is bound under the severest penalties to be respectful and obedient to his master and his

his family.

Same Code Section CCCXXXVII.

" A slave guilty of addressing abusive
" language to his master shall
" suffer death by being strangled
" at the usual period.—
" If to his masters relations in
" the first degree, he shall be
" punished with eighty blows
" and two years banishment:
" If to his masters relations in
" the second degree, the punish-
" ment shall be 80 blows;
" if in the third degree 70 blows,
" if in the fourth degree, 60 blows.
" In these Cases as well as in
" others the abusive language
" must have been heard by
" the person to whom it was

addressed

" addressed and such person must
" always be the Complainant."

The masters right
of property or interest in the
slave seems to have been
taken in view in this last
paragraph, as he need not
complain. If the slave is
valuable and he does not wish
to lose him or his services for
a time, he may by virtue of
the Patria Potestas punish
him to any degree -

Same Code - Section CCCXIV. (part 8)

" The master or the relations of
" the master of a guilty slave,
" may however chastise such
" slave in any degree short
" of occasioning his death,
without

" without being liable to punishment
" Nevertheless, if a master or his
" aforesaid relations in order to
" correct a disobedient Slave or
" hired Servant, should Chastise
" him in a lawful manner
" on the back of the thighs or
" on the posteriors, and such
" Slave or hired Servant happens
" to die; or if he is killed in
" any other manner accidentally,
" neither the master nor his
" aforesaid relations, shall be
" liable to any punishment
" in Consequence thereof."

The penalty for using violence to the master, or his family is the severest known to the Chinese law. The five first paragraphs of the

the Penal Laws in

Section CCCXIV. read:

1. All slaves who are guilty of
designedly striking their
masters, shall without making
any distinction between principals
and accessaries, be beheaded.

2. All slaves designedly killing, or
designedly striking so as to kill
their masters, shall suffer
death by a slow and painful
execution

3. If accidentally killing their
masters, they shall suffer
death, by being strangled
at the usual period.

4. If accidentally wounding
they shall suffer 100 blows,
and perpetual banishment

to

" to the distance of 3000 li; not
" being allowed, as under similar
" circumstances in ordinary Cases,
" to redeem themselves from
" punishment by a fine
" 5. - Slaves who are guilty of
" striking their masters' relations
" in the first degree, or their
" masters' maternal grandfather
" or grandmother, shall be
" strangled at the usual period.
" If more than one are Concerned,
" the principal shall be strangled,
" and the rest suffer the punishment
" next in degree. - All slaves who
" strike so as to wound such
" persons, shall without distinction
" between principals and accessaries
" be beheaded at the usual period

This

This slow and painful execution
mentioned is better known as
the "Slicing process" of execution,
"or "the 10000 cuts". Foreigners have
witnessed it and the description
is too horrible to recite.

Several Sections of the Penal
Code seem intended to separate
the Slave and free classes as
far as possible. It provides
seven penalties for inducing a
free person to marry a slave
viz: Section CXV.

" If any master of a family
" solicits and obtains in marriage
" for his slave the daughter of
" a freeman, he shall be
" punished with 80 blows; -
" the member of the family
who

who gives away the female in
marriage shall suffer the
same punishment, if aware
that the intended husband
is a slave but not otherwise.
A slave soliciting and
obtaining a daughter of a
freeman in marriage shall
also be punished in the same
manner, and if the master
of the slave consents thereto,
he shall suffer punishment
less by two degrees, but if
he moreover receives such
freewoman into his family as
a slave he shall be punished
with 100 blows. Likewise,
whoever falsely represents
a slave to be free and

thereby

" thereby procures such slave a
" free husband or wife, shall
" suffer 90 blows. — In all
" these cases the marriage shall
" be null and void, and the
" parties replaced in the ranks
" they had respectively held in
" the Community."

The master is protected against any breach of trust or confidence placed in the slave as a domestic.

Section CCCLXX reads:

" All slaves or hired servants who
" have been guilty of a criminal
" intercourse with their masters'
" wife or daughter shall be
" beheaded immediately after
" Conviction: — When guilty of "

of a criminal intercourse with
their masters female relations
in the first degree, as with the
wives of the male relations of
their masters in the same degree
they shall be strangled after
remaining in prison the
usual period. — In the above
cases the punishment of the woman
if consenting shall be less only
by one degree. — When guilty
of a criminal intercourse with
their masters more distant female
relations, as with the wives of
his more distant male relations,
they shall be punished with
100 blows and perpetual
banishment to the distance
of 2000 li. — If guilty of

committing

" committing a rape upon the
" latter persons, they shall be
" beheaded after remaining in
" prison the usual period: except
" in the Cases of rape the punishment
" of a criminal intercourse with
" any of the inferior wives, shall
" generally speaking be less than
" in the Case of principal wives
" by one degree."

and Section CCCLXXIII. reads:

" A Slave who is in any way
" guilty of a criminal intercourse
" with the wife or daughter of
" a freeman, shall be punished
" at the least one degree more
" severely than a freeman would
" have been under the same
" circumstances. — On the contrary,

the

"the punishment of a freeman for
"having criminal intercourse with
"a female slave, shall be one
"degree less than in ordinary
"cases. — When both parties
"are slaves, the criminal intercourse
"shall be punished in the same
"manner as in the case of
"free persons".

On the other hand any offence against a slave by freemen is less severely punished than when it is committed against free persons.

Doolittle in "Social life among the Chinese Vol II. page 211, says; the descendants of slaves are admitted to literary examination, which shows that it is not considered to be so degrading to be a slave as some other

other callings, that of actors, for instance, whose descendants for four generations are not allowed that privilege.

The same work and Volume, pages 211 and 212, gives some prices for which persons were sold, which came under the observation of the author:

"The sale reason in this parish, China considered sufficient to justify the sale of a child to be the slave of another, or of a wife to be the wife of some other man, is the excessive poverty of parents or husband, without friends able and willing to aid. The price varies according to the age, sex, appearance

, appearance of the child, the
, character and the age of the wife,
, the dearness of provisions, etc.,
, from a few dollars to seven
, ten or a hundred or two.
, In the year 1858 a man at
, Tschau sold his wife for
, about $20.-. Another man,
, about the same time, offered
, his only son, a bright lad
, of five or six years, for sale
, for $16.- He was offered $10.-
, by a man who wished to adopt
, him for his son, which offer
, he refused. Several years since,
, a lad who had been attending
, a missionary free school in
, this place (Tschau) was sold
, by his mother to be a playactor.

A friend

A friend saw a girl of about sixteen
or seventeen years old, not a
year ago, offered for sale for
$100 by her parents, who had
brought her from her native
place, some eighty or a
hundred miles to the south
of this. A bright girl of
about twelve years old was
sold by her parents, not long
ago, for about forty thousand
Cash " ($40.00)

A Writer in the China Review
Vol 2. page 55. says "a female
"infant is worth but 100 Cash
or 10 cents, while a healthy
boy, two or three days old,
will fetch 15 dollars"

4th Class

The 4th Class — Prostitutes

Of this class there is little to be said, as all the laws applicable to Slaves, generally apply with full force to them.

They are a numerous class and are to be found anywhere; in the small Country villages as well as in the larger cities. They form no inconsiderable percent of the whole population. They are all, at the commencement of their career Slaves. They are either rescued when exposed by their poor parents at birth, or bought later in life for the purposes of prostitution.

The law, or Custom older than

than any existing law, permits such traffic. Manly interferes to prevent a girl who has been bought for a wife, concubine or labor slave, from being used for purposes of prostitution; and in violation of this prohibition the number of blows is no more than for a petty theft.-

In the crowded streets of cities and in the more thinly settled country regions, fine looking female children are kidnapped and carried to distant places and sold to be raised for base vile purposes. Even grown women, wives and young mothers are carried away and

and sold. Persons charged with the offence of kidnapping are often before the Courts.

Children are taught by men of the prostitute class and reared with a view of making the most money out of them. They are consequently well fed and many of the female accomplishments, such as vocal and instrumental music, taught them. They are not overworked in childhood as that would make them coarse and masculine.

When from 12 to 14 years of age the physical part of their occupation commences, the moral development having been going on from infancy

from

from their daily surroundings.

For years after the age of puberty they are a source of income to their owners, and when, from advancing age, they are no longer attractive they are allowed to emancipate themselves at a small price, and they soon manage to buy two or three small girls and then rear them. And so the system ever revolves —, the bond woman becoming free only to become the owner of the bound. Although the treatment of these little children is good, so far as food and work is concerned, many of them, are unmercifully beaten

beaten by their owners. — +
The whole system is such
as to develope all the worst
traits of human character.
Hence it would be difficult
to imagine a more +
depraved and vicious class
of people.

Number of Slaves.

Class № 1. Eunuchs: From
the use of this class being
confined to the Imperial
families it is not believed
that there are more than
20,000 — in the Empire —

Class № 2. Concubines —

It is impossible to arrive at
anything like an accurate
estimate of the numbers
of

of this class. — As all the men, of all the classes, who are able, have one or + more Concubines, and as they can be purchased and maintained cheaply, it is within bounds to say that one head of a family in five, practices Concubinage; and a man with moderate wealth may have two or three, or even more, I therefore conclude that there are one fourth as many Concubines as families. + If the basis of calculating the number of families be assumed to be the same as with us, and the

population

Population estimated at three hundred Millions, there are Sixty Millions (60.000.000) families in China. Therefore from the above there must be fifteen Millions (15.000.000) Concubines in the Empire - all property - bought as such, held as such, and liable to be sold as such.

Class No 3. Labor Slaves.

I have no figures by which to arrive at the numbers of this class. I am compelled to rely entirely upon the Opinions of the most intelligent natives whom I can reach. They estimate that one family in five had Slaves, and as the richer

richer people have several, I have concluded that the labor slaves are one fourth (1/4) as many as the numbers of families or fifteen Millions (15.000.000.—). It is very probable that those sold permanently and those mortgaged ± temporarily, are many more than this number ±

Class N°4. Prostitutes:

In a recent decision of Sir John Smale, Chief Justice of the Supreme Court of the British Colony of Hongkong, he says, that in a population of 120,000 Chinese in that Colony, there are at least ±10,000 Slaves and that

same

same people estimate the number at 20,000.

There is therefore at least one slave to every eleven freemen in that British Colony in spite of laws & prohibiting Slavery.

I have no other data from which to estimate the numbers of this 4th Class. I am of opinion, however, that this Class considerably out numbers the 2d Class, through the whole Empire and in summing up these estimates I conclude that in all there are from forty to fifty Million Slaves of all Classes in China.

The first and second classes are

are composed of persons of same intelligence and moral character judged by the Chinese Standard The third and fourth Classes are illiterate, immoral & and miserable creatures.

It would be difficult to imagine people more hopelessly situated than the thirty Millions of these two Classes. They are so inextricably bound that usually the only hope for release from their misery and degradation is in death.

To recapitulate:

1st Slavery does now, and has prevailed, extensively in

in China through her whole historic period.

2dly That the present slavery of China has grown out of the patriarchal family organization.

3d That the law of the Chinese family gives the pater familias absolute power and control over the members of the family

4th That this power and authority is transferable by mortgage or sale and can be exercised, when so transferred, as by the original head of the family.

5th That the Slaves of China are devided into four Classes and

and that these four classes comprise one sixth (1/6) of the whole population of the Empire.

6th That judging from the result of thirty seven years experience by the British authorities in Hongkong, there is vitality and strength enough in the Chinese family law and in the System of Chinese Slavery to enable them to defy foreign laws and Courts, even in foreign Countries.

David L. Bailey

Consul General

Section CXV

If any master of a family solicits and obtains in marriage for his slave the daughter of a freeman, he shall be # punished with 80 blows; — the member of the family who gives away the female in marriage shall suffer the same punishment, if aware that the intended husband is a slave but not otherwise.

A slave soliciting and obtaining a daughter of a freeman in marriage shall also be punished in the same manner, and if the master of the slave consents thereto, he shall suffer punishment less by two degrees, but if he moreover receives such free-woman into his family as a slave he shall be punished with 100 blows.

Likewise whoever falsely represents

a

a slave to be free and thereby procures such slave a free husband or wife, shall suffer 90 blows. —

In all these cases the marriage # shall be null and void, and the parties replaced in the ranks they had respectively held in the community.

Section CXVI

If a female slave deserts from her masters house, she shall be punished with 80 blows, or with 100 blows, if she contracts a marriage during such # absence, and in both cases she shall be restored to her master.—

Whoever harbours a fugitive wife or slave or marries them, knowing them to be fugitives, shall participate equally in their punishment except in capital # cases, when the punishment shall be reduced one degree.

The marriage-present in all such cases is forfeited to government.—

When however the person harbouring or marrying the fugitive is really # ignorant of her criminality, he shall not be subject to any punishment

and

and shall even be entitled to demand the return of the marriage present.

Section CCLXXII

If hired servants or slaves steal from their masters or from each other the punishment shall be one degree less severe than in ordinary cases of theft, and the thief shall not be branded.

(Note). Notwithstanding the tenor of this article it is provided in one of the supplementary clauses, that the punishment of slaves guilty of theft, shall be at the least, equal to that of thieves in general, and one degree more severe, when the offence is committed by them, in combination with strangers.

Section CCXCIV

Whoever is guilty of killing his son his grandson or his slave and # attributing the crime to another person shall be punished with 70 blows and one and a half years banishment.

Any slave attributing, previous to burial the death of his master to a person innocent thereof, shall if aware of the falsehood of the imputation be # punished with 100 blows and three years banishment.-

---

Section CCCXIII

A Slave striking a free man, shall proportionably to the consequences be punished one degree more severely than is by law provided in similar cases between equals. — If the blow produces entire disability and incurable infirmity the offender shall be strangled. — If death ensues the offender shall be beheaded. —

A freeman striking a slave shall in like manner, be punished less severely by one degree, than in the ordinary cases of the same offence, but in the case of the death of a slave, in consequence of the injury received, and in the case of a slave having been killed designedly, the offender shall be strangled. — Slaves striking, wounding or killing one an

another, shall be punished as already provided in ordinary cases between equals.—

In cases of stealing, and other similar offences, between free persons and slaves, the law of diminution and aggravation of punishment shall not take effect.—

Striking the slave of a relation in the third or fourth degree, but without producing a cutting wound, shall not be punishable.— If the blow produces any greater injury, short of occasioning death the punishment shall be two degrees less severe than in ordinary cases.— Striking the slave of a relation in the second degree shall be punished three degrees less severely than in ordinary cases.— If in either case the blow occasions death, the offender shall be punished with 100 blows and three years banishment:— if the blow

blow proves mortal and has likewise been struck with an intention to kill the offender shall suffer death by being strangled.

In the case of killing accidentally no punishment shall be required. —

Striking the hired servant of a relation in the third degree without producing a cutting wound shall not be punishable. —

General

Shanghai China

Enclosure No 5

with

Despatch No 47.

Chinese Slavery Laws

Section CCCXIII 313.

Section CCC XIV

All slaves who are guilty of designedly striking their masters, shall without making any distinction between principals and # accessories be beheaded.—

2 All slaves designedly killing or designedly striking so as to kill their masters, shall # suffer death by a slow and painful # execution.— If accidentally wounding they shall suffer 100 blows and perpetual banishment to the distance of 3000 lee; not being allowed, as under similar # circumstances in ordinary cases, to redeem themselves from such punishment by a fine

Note This part of the law, denouncing punishment even in cases which are admitted to have been purely accidental is in some degree modified in the supplemental clauses.—

Slaves who are guilty of striking their

their Master's relations in the first degree or their masters maternal grandfather or grandmother shall be strangled at the usual period.— If more than one are concerned, the principal shall be strangled and the rest suffer the punishments next in degree.—

All Slaves who strike so as to wound such persons, shall without distinction between principals and accessaries be beheaded at the usual period.—

3 If accidentally killing the punishment shall be two degrees less severe, than in the case of intentionally striking such persons.— If accidentally wounding the punishment shall be another degree less severe, than in the case of intentionally striking.— All slaves who are concerned in the crime of designedly killing such persons shall suffer death by a slow and painful execution.— A slave who is

is guilty of striking or striking and slightly wounding his masters relations in the fourth degree, shall be punished with 60 blows and one years banishment: if guilty of striking his masters relations in the third degree, he shall be punished with 70 blows and banishment for a year and a half: if guilty of striking his master's relations in the second degree, the punishment shall be 80 blows and two years banishment. —

4. If a slave is guilty of striking any of his masters relations in the fourth degree, so as to produce a severe cutting wound, the # punishment shall be one degree more severe than it would have been if he had so wounded a free person in ordinary cases: —

In the case of a master's relation in the third degree, two degrees more severe; and in the case of a master's relation in the second degree, three

three degrees more severe. —

5. If by these augmentations, the punishment in any case becomes capital, the offender shall be strangled at the usual period; but if the wound occasions death, then whether there was originally a design to kill or not all the slaves concerned shall be beheaded. —

6 If in a case of a slave having been guilty of theft, adultery or any other # similar crime, his master or some one of his nearest relations in the first degree or his master's maternal grandfather or grandmother, instead of complaining to a magistrate privately beats to death such slave, the person who so offends shall be punished with 100 blows. —

7 If any such person as aforesaid, beats to death or intentionally kills a slave # belonging to his family, who had not

not been guilty of any crime, the person so offending shall be punished with 40 blows and one year's banishment; and the wife or husband as well as the children of such deceased slave shall be thereupon entitled to their freedom.-

8 The master or relations of the master of a guilty slave, may however chastise such # slave in any degree short of occasioning his death, without being liable to punishment.

Nevertheless if a master or his aforesaid relations in order to correct a disobedient slave or hired servant, should chastise him in a lawful manner on the back of the thighs or on the posteriors, and such slave or hired servant happens to die; or if he is killed in any other manner # accidentally, neither the master nor his aforesaid relations, shall be liable to any punishment in consequence thereof.-

Section CCCXXVII

A Slave guilty of addressing abusive language to his master shall suffer death by being strangled at the usual period.-

If guilty of adressing abusive language to his master's relations in the first degree he shall be punished with eighty blows # and two years banishment :— If addressing abusive language to his masters relations in the second degree the punishment shall be 80 blows; if in the third degree 70 blows if in the fourth degree, 60 blows :—

In these cases as well as others the abusive language must have been heard by the person to whom it was addressed and such person must always be the complainant.-

Section CCCLXX

All slaves or hired servants who have # been guilty of a criminal intercourse with their masters wife or daughters shall be beheaded immediately after conviction :— when guilty of a criminal intercourse with their masters female relations in the first degree, or with the wives of the male relations of their masters in the same degree they shall be strangled after remaining in prison the usual period.—

In the above cases the punishment of the woman if consenting shall be less only by one degree.— When guilty of a criminal # intercourse with their masters more distant female relations, or with the wives of his more distant male relations, they shall be punished with 100 blows and perpetual banishment to the distance of 2000 lee.— If

If guilty of committing a rape upon the # latter persons, they shall be beheaded after # remaining in prison the usual period: except in the cases of rape the punishment of a criminal intercourse with any of the inferior wives, shall generally speaking be less than in the case of principal wives by one degree.—

Section CCCLXXIII

A Slave who is in any case guilty of a criminal intercourse with the wife or daughter of a freeman, shall be punished at the least one degree more severely than a freeman would have been under the same circumstances.—

On the contrary, the punishment of a freeman for having criminal intercourse with a female slave, shall be one degree less than in ordinary cases.—

When both parties are slaves, the criminal intercourse shall be punished in the same manner as in the case of free persons.

Section CCCLXXIX

No private individual nor any officer of government, excepting only the princes of the Imperial family shall presume to educate castrated children, in order to their being employed as eunuchs in their domestic establishments; every breach of this law shall be punished with 100 blows and perpetual banishment to the distance of 3000 lee: and the castrated children shall be sent back to the families whence they were taken or to which they belonged. —

Note. The number of eunuchs employed within the precincts of the Imperial palace has ever been considerable; and from the access they must of necessarily have at all times to the Sovereign, in the capacity of his domestic servants, it is not improbable that they may still continue to exert some degree of undue influence; it does

does not however appear that they are ever likely to enjoy under a Tartar dynasty, that exclusive and dangerous confidence, which while the government was in the hands of native # princes was sometimes reposed in them.

Section CCLXXV

The offence of entrapping and # carrying off for sale or persuading to # come away voluntarily for the same # purpose, the lawful slave of any person shall be punished one degree less severely than that of kidnapping a free person under similar circumstances.

Any person who sells his children or grand-children against their consent, shall be punished with 80 blows.

Note. Although it would appear from this restriction, that the power of a # parent over his child, according to this code is much less extensive, than that allowed by the ancient Romans, yet as the adoption of children and the purchase of inferior wives or concubines is a transaction of constant occurrence

and

and one, in which the real parents + lawfully may, and usually do, receive a pecuniary consideration it can scarcely be denied that the sale of children in China is practically allowed. —

Note. Ill is to be observed indeed, that the slavery which is recognised and tolerated by the laws of China is a mild species of servitude, and perhaps not very degrading in a country, in which no condition of life appears to admit of any considerable degree of personal liberty and independence. —

Ack.

Dec. 12/79 Wood

No. 48] October 21st 1879 United States Consulate General at Shanghai,

Mr. Bailey Consul General. to the State Department,

Subject:— Renunciation of Allegiance by Chinese Subjects.-

ABSTRACT OF CONTENTS.

Observations in connection with the # renunciation of Allegiance by Chinese subjects.-

Inclosure.

Copy of Section CCLV of the Penal-Code of China, translated by Sir George Thomas Staunton Bart. F.R.S.

No. 48

United States Consulate General,

Shanghai, October 21st 1879

Hon. Charles Payson

Third Assistant Secretary of State,

Washington, D.C.

Sir,

Referring to my despatch No 47, dated October 21st, relating to "Slavery in China" I have the honor to enclose herewith a copy of Section CCLV of the Penal Code of China, as translated by Sir George Thomas Staunton, Bart. F.R.S., which is the only translation ever made, and which is accepted as accurate and authoritative.-

As my despatch No 47 did not attempt to treat of penal servitude, I did not transmit this section with the inclosures relating to Slavery.- It is however of so much importance at this juncture of Chinese emigration to the United States, and relates so forcibly to the

question

question of the Citizenship of this class of emigrants that I have thought it my duty to transmit it with a special dispatch for the information of the # Department.-

In this connection I have to remark that the Patriarchical organization of society in China is such as to make the enforcement of this law easy and effective.- The Elder member of the family - the Pater familias - has almost # unlimited control and power over every member of the family, and he is held to a close accountability for the actions of all members of his family; not only is he held, but every other member of that family has a responsibility in the matter of the actions of all the other members, and is held accountable for their conduct to a certain degree.-

The whole system of family relations is so # interlocked in domestic life and interwoven with duties and obligations to the state, that it may

almost

almost if not quite be said, that one is responsible for all and all are responsible for one, in all the different branches of the family, even to remote degrees and to remote countries.—

The whole Chinese Philosophy inculcates this absolute power of the Pater familias over all the members of the family to the farthest degree, the duty of the most implicit obedience due by them to the head of the family, and of the accountability of all members of the family, as well as the head, for the conduct of any one of the family.—

When a Chinese subject goes out to any other country all the other members of his family ″ remaining in China, are so many hostages, that he will return, and that he will maintain his allegiance to his country.—

The horrible punishment which may ″ lawfully be inflicted on these hostages is ″ sufficient to account for the rarity of instances

of

of naturalization which has occured in the # history of Chinese emigration to the United States.-

This is the text and the theory of the law, and no doubt has been the practical operation of the law for Ages.-

I do not assert that the full vigour of this section of the Penal Code has not been # modified by the contact of China with western nations and modern ideas in the last two or three decades.- I believe that foreign intercourse with China is gradually effecting great changes, and will in time remove many of the objectionable and repulsive features of her practices and systems; but that change will be very slow, very methodical, for the whole Chinese fabric of society and Government is surrounded by so much that is hallowed by tradition, experience, the Long duration of the Empire, the teachings of her sages and # philosophers, as to make her people the most

most inapt of all people to believe in the efficacy of modern ideas and a new ## civilization.-

I have the honor to be

Sir

Your obedient servant

David H. Bailey

Consul General

Enclosure.

Copy of Sec. C. C. L. V. of the Penal Code of Chile

Penal Code of China: translated by Sir George Thomas Staunton Bart F.R.S.

Section CCLV. Renunciation of Allegiance.

All persons renouncing their country and allegiance or devising the means thereof, shall be beheaded; and in the punishment of this offence, no distinction shall be made between Principals and Accessaries.

The property of all such criminals shall be confiscated, and their wives and children # distributed as slaves to the great officers of state.-

Those females however, with whom a marriage had not been completed, though adjusted by # contract, shall not suffer under this law; from the penalties of this law, exception shall also be made in favour of all such daughters of # criminals, as shall have been married into other families.— The parents, grand parents, brothers and grand children of such criminals whether habitually living with them under

the

the same roof or not, shall be perpetually # banished to the distance of 2000 lee.-

All those who purposely conceal and # connive at the perpetration of this crime shall be strangled.-

Those who inform against and bring to justice criminals of this description, shall be rewarded with the whole of their property.-

Those who are privy to the perpetration of this crime and yet omit to give any notice or information thereof to the magistrates shall be punished with 100 blows, and banished # perpetually to the distance of 3000 lee.

If the crime is contrived, but not executed, the principal shall be strangled and all the accessories shall each of them be punished with 100 blows and perpetual banishment to the distance of 3000 lee.-

If those who are privy to such ineffec-
tive

ineffective contrivance do not give due notice and information thereof to the magistrates, they shall be punished with 100 blows, and banished for three years.—

All persons who refuse to surrender # themselves to the magistrates, when required, and seek concealment in mountains and desert places in order to evade either the performance of their duty, or the punishment due to their crimes, shall be held guilty of an intent to rebel and shall therefore suffer punishment in the manner by this law provided.— If such persons have recourse to # violence and defend themselves when pursued, by force of arms, they shall be held guilty of an overt act of rebellion, and punished accordingly.—

Shanghai. China

Inclosure No 1

with

Despatch No 48.

Copy of Section CCLV of

the Penal Code of China, trans.

by Sir George Thomas Staunton

Bart. F.R.S.

Ack 12/19 Dec. 13/79 Copy to Bd. of Health Returned 3rd 1880.

No. 49.] Oct 21 1879 United States Consulate at Shanghai,

Mr. Bailey Consul Gunst to the State Department,

Subject:— Mr Consul Seward's Dispatch to. 17.

ABSTRACT OF CONTENTS.

Reports that the Subjects of Mr. Consul Seward's dispatch to. 17. has been thoroughly investigated and found to have no foundation in fact.

No. 49

United States Consulate,

Shanghai, 21st October 1879

Hon. Charles Payson

Third Assistant Secretary of State,

Washington, D.C.

Sir,

I have the honor, in accordance with instructions contained in Department dispatch No. 6., to report upon the subject of Mr. Consul Scruggs dispatch No. 17. that this communication relating to the diagnosis of incipient Leprosy is confined to the valley of the Yangtze River. Some six or seven years ago Doctor Shearer of Kiukiang and Doctor Smith of Hankow gave this subject a thorough investigation

investigation, and reported that the superstition had no foundation in fact.

It cannot be known as the first stage of Leprosy is confined to the deep seated nervous system, and cannot possibly be observed, by any means, on the surface.

I have the honor to be,

Sir,

Your obedient Servant,

Consul-General

Mr Wood

No. 50] Oct. 21st 1879 United States Consulate at Shanghai,

Mr. Bailey Consul Acted Dec. 12/79 to the State Department,

Subject:—

ABSTRACT OF CONTENTS.

Transmits accounts and Returns.

Enclosure No 1. Form No. 120 Stat

" " 2 " " 121 Ret

" " 3 " " 117 Stat

" " 4 " " 90 Dept

" " 5 Interpreters Account

" " 6 Special Clerk Hire Acct.

No. 50

United States Consulate,

Shanghai, October 2d 1879

Hon. Chas. Payson

3rd Asst. Secretary of State,

Washington, D.C.

Sir,

I have the honor to transmit herewith, enclosures Nos 1 to 6 inclusive, being my accounts and returns for the 3rd quarter of 1879.

I have the honor to remain

Your Obedient Servt

David H. Bailey

Consul General

Mr Hood

No. 57] Oct. 22 1879 United States Consulate at Shanghai,

Mr. Bailey Consul Genl. ad Dec 1879
Acct

to the State Department,

Subject:—

ABSTRACT OF CONTENTS.

Has drawn on the State Department
for Miscellaneous Expenses Account.

No. 57

United States Consulate,

Shanghai, October 20th 1879

Hon. Chas. Payson,

3rd Asst. Secretary of State,

Washington, D.C.

Sir,

I have the honor to inform you that I have drawn on the Secretary of State for the sum of three hundred and eighty-seven 91/100 dollars, to balance my miscellaneous Expenses account for the quarter ending September 30th 1879.

I have the honor to remain

Your Obedient Servt

David H. Bailey

Consul-General

No. 52] 22 October 1879 United States Consulate General at Shanghai,

Mr. Bailey Consul General. to the State Department,

Subject:— Thomas Allen deceased

ABSTRACT OF CONTENTS.

Regarding the death of Th^s Allen — a Report on his affairs, not yet accurately ascertained, to follow as soon as possible —.

No. 52

United States Consulate General,

Shanghai, 22 October 1879

Hon. Charles Payson

Third Assistant Secretary of State,

Washington, D.C.

Sir,

I regret to have to inform the Department of the death, on the 24 September 1879, at Shanghai, of Thomas Allen a citizen of the United States by naturalization.

The relatives, Widow and Children, of the deceased live in Cambridge, Mass:,

An account of his affairs will be given to the Department as soon as these have been accurately ascertained -

I.

I have the honor to be

Sir,

Your obedient Servant

David H. Bain

Consul General

Allow if usual C. P. Curwood

No. 53] 11 November 1879 United States Consulate General at Shanghai,

Mr. Bailey Consul General. to the State Department,

Ans. Jan 29/80

Subject:— Requisition for Books

ABSTRACT OF CONTENTS.

Requesting to supply Wheatons Intern^l Law and the "Law of claims against Governments"

No. 53.

United States Consulate General,

Shanghai, 11 November 1879

Hon. Charles Payson

Third Assistant Secretary of State,

Washington, D.C.

Sir,

I have the honor to request you to furnish this office with a copy of "Wheatons International Law" and a copy of the "Law of Claims against Governments"

The copy of Wheaton belonging to the Library of this Consulate has unaccountably disappeared

I have the honor to be,

Sir,

Your Obedient Servant

Frank L. Bail

Consul General.

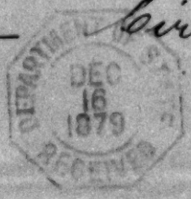
Mr Wood

Arrd Dec. 1879

No. 54] 11th November 1879 United States Consulate General at Shanghai,

Mr. Bailey Consul General. to the State Department,

Subject:— Circular No 17.



ABSTRACT OF CONTENTS.

Giving the names of those institutions in Shanghai where the work upon "The Wealth of the United States" might best be placed.

Notes

No. 54.

United States Consulate General,

Shanghai, 11 November 1879

Hon. Charles Payson

Third assistant Secretary of State,

Washington, D.C.

Sir,

I have the honor to acknowledge the receipt of your circular No 17 dated July 30th 1879 relating to the publication of a work upon the Subject of "The Wealth of the United States."

In accordance with the instructions therein Cantained I have to report that "The Shanghai General Chamber of Commerce", "The Shanghai Club Library", "The German Club Library", "The Shanghai Library", "The Astor House Reading Room"

Rooms" and "the Shanghai Shipmasters
and also the Library of the United States Consulate General
Association Reading Rooms," are
the best depositories for accomplishing
the public objects of the proposed
work

I have the honor to be,
Sir,
Your Obedient Servant
David H. Bailey
Consul General

W Wood

No. 55] Novb 11th 1879 United States Consulate General at Shanghai,

Ans Dec 18/79

Mr. Bailey Consul General. to the State Department, File

Subject:— Records and Archives of this Consulate General.

ABSTRACT OF CONTENTS.

Reports on the above in detail, and asks for return of records comprising 46 volumes sent to Washington in June 1878.

Noted

No. 55.

United States Consulate General,

Shanghai, November 11th 1879

Hon. Charles Payson

Third Assistant Secretary of State,

Washington, D.C.

Sir,

Referring to your despatch No 7 relating to the Archives of this Consulate, I have the honor now to make the following Report:

1st Library

The law section of the library, consists of the following books:

Volumes		
✓ 1	Revised Statutes	1873-5
1	d.	d. 1878
✓ 8	Code of California	
1	U.S. Court Reports	
1	d.	d. Deady's
1	d.	d. Black's
4	Kent's	Commentaries

Volumes	
2	Bouvé's Law Dictionary
2	Chilly's Blackstone
1	Chitty on Contracts
1	Paly's Law of Principal and Agent
2	Maritime Law
1	Commercial Digest
1	Prize cases in Newyork
1	Abbott on Shipping
1	Benedict's Admiralty
3	Story on Constitution
1	d. Agency
2	d. Contracts
2	d. Equity Jurisprudence
1	Conkling's U.S Treaties
1	Gould's Readings
3	Greenleaf on Evidence
2	Russell on Crimes
2	Bishop on Criminal Law
23	Howard's Reports U.S. Courts

4 Wallace Supreme Court Reports

1 Weskill's Insurance

1 Jacobsen's Sea laws

1 Elliotts American Diplomatic Code

1 Laws U.S. Navy and Marine Corps

3 Brightley's Digest

20 U.S. Statutes at large

✓9 Opinions of the Atty. General

✓1 Digest Opinions Atty. General

1 Missouri Farm Book

1 Postal laws and regulations

1 General Law Book Pacific Coast

1 Rights and Duties of Merchant seamen

1 New Clerks Assistant.

These constitute the whole Law Library of this # Consulate General, where cases, involving large # pecuniary interests and important legal questions are constantly arising.- The most of these books are old Editions.- 2

Volumes

2. Miscellaneous Library

15 North China Herald Supreme Court & Cons. Gazette

5 Old Consular Regulations

1 7th Census of the United States

1 8th d. d.

3 9th d. d.

11 Reports Department of Agriculture

5 Geneva Arbitration

42 Annals of Congress

130 Diplomatic Correspondence

14 Encyclopediae Americanus

1 Assassination of President Lincoln

1 Treaties & Conventions with U. S. and other Powers

1 Mineral resources of the U. S. 1866.

This constitutes the General Library. - As a Library for commercial reference it is far from being complete. If Boards of Trade, Chambers of Commerce and commercial people could be induced to send their publications to this Consulate General, the value of

the

the library would be materially enhanced.-

3ª In the Office of the Shipping Clerk the following books of record are kept.

Invoice book

Arrival & Departures of American vessels

Ships Daily Journal

Seamen's Register

Marine Note of Protest

American Seamen Relieved

Quarter Account Current for same

Hospital book (Sending Seamen to Hospital)

Register of Landing Certificates

U. S. Treasury Fees (All fees)

Quarterly Statement of Fees (fees relating to Shipping)

Bill of Sale Book (Record of sale of vessels)

Register of Marriages

d° of Births

d° of Deaths

2 Books Miscellaneous Records (for recording legal Acts.)

Press

Press copybook for Postal Business

do for Shipping & Miscellaneous

Blotter, - Cashbook, Journal, Ledger

4th In the Interpreters Office the Records are kept in the following books.

Inward Despatchbook
Outward do
Miscellaneous In & Outward Despatchbook
} Chinese Officials

Mixed Court Register

Passport Register

Miscellaneous Press Copybook.

5th In the Office of the Clerk of the U.S. Court for the Consular District of Shanghai the Records are kept in the following books.

1 Book of Court Minutes

1 Civil Docket

1 Criminal Docket

1 Probate Docket

1 Court Cash Account

1

1 Court Calendar.

6th In the Office of the Marshal of the Court the books are:

1 Record Committals
1 d. Discharges
1 d. Marshals fees
1 d. Daily Reports Jail
1 d. Monthly d. d.

7th In the Office of the Consular Clerk the Records comprise the following books.

1 Book Despatches sent to State Department.
1 Register letters sent
1 d. d. received
1 d. Despatches from Consulates to the Dept of State
1 d. d. from Depart of State to Consulates
1 d. d. Consulates to Legation
1 Miscellaneous Correspondence Presscopy book
1 Legation d. d.
1 Consulates d. d.

1 Treasury Correspondence Press Copy book

1 Court do do

In addition to these the whole Correspondence received, since the establishment of the Consulate to the present time, is kept in bound Volumes & appropriately marked.-

The above comprise the Records and & general Archives of this Consulate General.-

Of the records of this Consulate General the following books are now, and have been for the last fifteen months in Washington;

22 bound volumes of correspondence from State Department Legations and Consuls from 1862 to 1875

10 Presscopybooks containing correspondence to State Dept. Legations and Consuls from 1862 to 1875

3 Treasury fee books from 1856 to 1875

1 Seamens Reliefbook from 1858 to 1875

1 Fees received on a/c vessels from 1858 to 1875

1 Ships Daily Journal

2 Arrivals

2 Arrivals & Departures Am. vessels from 1858 to 1876

1 Invoicebook from 1858 to 1876

2 Seamen's registry 1858 to 1876

1 d° Acct Current 1858 to 1875

1 Blotter from 1872 to 1873

1 d° " 1871 to 1873

It is often desirable and in many cases, involving questions of public and private ~~#~~ importance, absolutely necessary to refer to these records, before a just and satisfactory solution of such questions can be arrived at.

It would therefore seem desirable, that these records, should be returned to this Office at an early period of time.

I have the honor to be

Sir

Your obedient servant

Consul General

Ack'd Dec 16 1879 Merwood C.P.

No. 56] 11th November 1879 United States Consulate General at Shanghai,

Mr. Bailey Consul General. Asst Dec to the State Department,

Subject:— Appointt of Vice Consul at Canton and Interpreter at Foochow

DEPARTMENT OF STATE DEC 16 1879 RECEIVED

ABSTRACT OF CONTENTS.

Reporting the temporary appointments of Mr F. D. Cheshire as Vice Consul at Canton to act in Mr Consul Lincoln's absence and of Mr J. P. Cowles Jr as Interpreter at Foochow in Mr Cheshire's absence—

No. 56.

United States Consulate General,

Shanghai, 11th November 1879

Hon. Charles Payson

Third assistant Secretary of State,

Washington, D.C.

Sir,

Referring to Mr Consul Lincoln's despatches numbered 79 and 88 and to my despatch No 22 all relating to leave of absence to enable Mr Lincoln to visit the United States I now have the honor to report for the information of the Department that when Mr Lincoln received his leave of absence Mr F. R. Talbot, the Vice Consul at Canton, was absent from China and Mr Lincoln nominated Mr T. B. Cunningham of Russell & Co

Canton

Cantan, acting Vice Consul during Mr Lincolns absence, and requested the approval of this Consulate & General and of the Legation at Peking thereto. From the high character of Mr Cunningham and the near approach of the time at which Mr Lincoln had arranged to depart with his family for the United States, and the urgency of the situation as to that, I approved the nomination and forwarded it to Mr Seward at Peking. Mr Seward in reply wrote that:

"The Chinese Government is very
"decidedly opposed to Merchant
"Consuls and for this and other
"reasons of a public nature
"I should think it wiser to place

the

"the Consulate at Canton in charge
"of a person not connected with
"trade and if possible now in the
"service".

Mr Seward suggested that it
would be possible to arrange that
Mr F. D. Cheshire Vice Consul
and Interpreter at Foochow +
should act as Vice Consul during
Mr Lincoln's absence. I fully +
recognized the force of Mr Seward's
objections and at once communicated
with Mr Lincoln, Mr De Lano
and Mr Cheshire, with the result
that Mr Cheshire was so appointed.

Since that time the position of
Vice Consul and Interpreter at
Foochow has been temporarily
filled by the appointment of Mr

Mr. J. P. Cowles Jr, a citizen of the United States, who has for five years last past, been connected with the Peking University

I am satisfied that both of these temporary appointments are good ones and that the best interests of our Country will be promoted thereby.

I have the honor to be,

Sir,

Your Obedient Servant

Frank H. Bowen

Consul General.

No. 57] November 1879 United States Consulate General at Shanghai,

Mr. Bailey Consul General. via Dec. 1879 to the State Department,

Subject:— Depart of State Despatch No 23. 5 Sept 1879.

ABSTRACT OF CONTENTS.

acknowledging receipt.

No. 67.

United States Consulate General,

Shanghai, 11 November 1879

Hon. Charles Payson

Third Assistant Secretary of State,

Washington, D.C.

Sir,

I have the honor to acknowledge the receipt of your despatch No 23. dated September 5th 1879.

I have noted that portion, therein, relating to the acknowledgment of despatches, and shall, hereafter, conform thereto

I have the honor to be

Sir,

Your Obedient Servant

Frank L. Bailey

Consul General.

For perusal by the Secretary of State.

W Wood

No. 58] Hong Kong 187 9 United States Consulate General at Shanghai,

Mr. Bailey Consul General. to the State Department,

Subject:— Emigrant Affairs, at Hong Kong

ABSTRACT OF CONTENTS.

Reforms the Department of the disposition of the Ocean Steamer the circumstances connected therewith.

No. 58

United States Consulate General,

Shanghai, Nov 11th 1879

Hon. Charles Payson

Third Assistant Secretary of State,

Washington, D.C.

Sir,

I have the honor to acknowledge the receipt of your despatch No. 14, bearing date August 5th, with the enclosure from Mr. John A. Morby, Consul at Hongkong, relating to the "Chinese Emigrant-fees", — And I am informed that a commission, consisting of General Shaw and Mr. Morby, has been organized to examine the whole subject of Chinese Emigration

emigration to the United States, and as to emigration fro.

I am permitted to make a statement in the premises to the Commission, either in person or in writing.

At the time of receiving your dispatch the Commission had adjourned, and Gunai Matui had returned to Kobe in Japan. Therefore I will address my observations directly to the Department.

The Gunai subject of Chinese emigration to the United States is one upon which I have so often had occasion to address the Department that I deem it unnecessary

at

at present, and in the absence of the report of the Commission, to do otherwise than to refer to my dispatches upon that subject.

As to the action of the Consul at incumbent of the Hong Kong Consulate, prior to my assuming charge in December 1870, concerning the enforcement of the act of February 19th 1862, it seems to have been the practice to charge for each emigrant a fee of fifty cents, payable by the vessel, and reimbursed by that sum being added to the passage money of the emigrant.

This

This Jurisdiction was considered as a personal Service, and was retained by the Consul as an unofficial fee.

It is to be observed that the act of Feby 19th 1862 only relates to vessels owned by citizens of the United States.

Up to the time of my assuming charge I am not aware of the appointment of examining officers to superintend the emigration of chinese to the United States.

owing to the faulteries of our consular System, and the paucity of our Salaries

I.

I found on assuming charge at Hong Kong many difficulties in connection with the organization, and administration, of that important post.

First, I was required by law, and the Consular Regulations, to appoint a vice consul within ninety days of my assuming charge. For this office there is no salary provided. At such a post as Hong-Kong I cannot appoint any one engaged in trade. The reasons for this prohibition are to be found in sections 1699 and 1700 of the Revised Statutes.

In.

In the absence of the Consul from Hongkong the Consular officer in charge is prohibited from transacting business. Therefore it is wholly impracticable to appoint anyone engaged in trade. A Vice Consul requires food and clothing like other mortals, and these articles cost money. In a busy mart like Hong-Kong where most persons are engaged to their utmost but in making money I could find no one who would abandon his business, or trade, so as to be qualified for a Vice Consul without a

Salary.

salary; nor could I find any one who would volunteer to come from the United States, or even elsewhere, to accept such a position without pay. The honor without the salary is not a sufficient inducement. Again, an almost insurmountable obstacle to a Merchant acting as a Free Consul is the objection which rival Merchants would at once raise, in a place like Hongkong, against a Merchant having, through the invoices of all Merchandize shipped thence to the United States, a

Consulate

complete index to all the business of his rivals. The advantage which the Government would be affording to our Merchant over all others under such circumstances is certainly does not comport with the dignity and true policy of a great nation.

Second, I was charged with the responsibility of seeing that the act of February 19th 1862 was duly enforced, as well as that clause enjoining to the United States at a period of excitement and hostility against that

Emigration

Emigration was conducted with
every reasonable care and
scrutiny.

Third, I found that
the business of the Consulate
was large. And that there
were certain quasi-diplomatic
functions and relations
connected with it, all of
which required much
diligence, tact and labor.

Lastly, the shipping
department in itself
required a special
management, as had
always been the case;
but I desired to put
this department upon a
more stable and respectable
footing

footing; concerning which I have to refer to my despatches from Hongkong to the Department in last year. Besides, I had liberal views as to the dignity and respectability of an establishment of my Government abroad — views which I am glad to say I still retain, and which I hope to retain so long as I may be connected with the Foreign Service of my Government — views which I hope will be cultivated by that rising generation which contains

Americans

American Commercial Statesmen, so
that they may have more
accurate knowledge, and
larger views, and more
generous impulses towards
the Consular Service of the United
States, which is now and
will continue, if rightly
fostered, to add so much
to the knowledge and wealth
of our Nation. The
Consular Service of the
United States is the Arm
Arms of the Nation —
reaching out into all
Countries for knowledge,
and opening up Arms
of Commerce for our
people. Why should we
Avarf

dwarf it? Why should we crippled it by mean establishments, by illiberal appropriations, by the assaults of adventurers, or by the machinations of political tricksters?

To perform the functions and duties, herein alluded to, I had during most of my incumbency in the Hong Kong consulate four foreign employees; three Chinese; and an official boat for duty among the shipping, and to attend upon the emigration examinations; And during all

all of my stay at post that I had the same clerical force, except that at a few intervals there was one foreigner absent. This employee consisted of a vice Consul, who was constantly on duty ~~on duty~~ at the Consulate; an Emigration officer; a Shipping Master, and a Shipping Masters clerk; a Chinese Interpreter (native); an Emigration interpreter (native) and a Schroff (native). The only allowance for the pay of all these employees, (except the emigration and unofficial ones) was the salary

Sum

sum of $300 per annum
for an interpreter, until
the year 1875, when that
amount was increased
to $760. To this should
be added a small allowance
for boat hire amounting
to about one third of
the actual boat expense.

It would require
a remarkable genius for
finance, which I do not
claim to possess, to employ and pay out
of this small sum so
many persons; especially
at a place like Hong Kong
noted for its high salaries
to clerks and for the

expensive

effective habits of the foreign
population.

To meet the effective
incident and necessary to
the assignment and the
employment of a free
Consul, and the other
clerical force required,
Under such circumstances,
I applied the fees which
had been considered and to
be unofficial fees, (in addition
addition to the fees accruing
Under the act of February 19th
1862) This class of fees
had been held to be those
arising from the examination
of Chinese Emigrants
to the United States or what

were

were called attended vessels, or vessels of foreign flags not included in the emigration or coolie laws and the fees derived from an extra sheet of an invoice over and above the triplicate invoice required by law.

The total amounts of emigrant dues from all sources never exceeded $3.500 per annum, and the average of the past 9 years would be something under $3000.

The extra sheets of invoices averaged four, year to year, bringing them and dues hundred dollars The

The whole of this sum from these sources, was applied, from year to year, without reserve, to the payment of the clerical staff herein before mentioned. There was no other fund out of which to pay it, and as they were regarded as unofficial fees, and as the service was necessary, I felt justified in applying them for the benefit of the service.

I may mention that while I reduced the remuneration required before my accession to office, for

Chinese emigrants, by one half. Not only doubled the staff of the Consulate, and thereby its efficiency, but increased the total revenue to the Government nearly two fold.

It is my opinion, and I believe, sooner or later, the Country will come to accept that view, that our Consulates should be conducted not so much with reference to the revenue they contribute to the Treasury, as to their efficiency and usefulness to the rights and commerce of the nations.

J.

I believe I had contributed something, I hope not inconsiderable, to the respectable character of the post at Hongkong, and had had to do with placing it on a better footing in whatever makes for the good name of our Consular Service, until Mr Morley came, apparently with a purpose to destroy what had been built up. Malign influences once planted in the human heart are seldom obliterated. If Mr. Morley's plan is to succeed perhaps the avocation of a Marauder may become respectable. Not only in

the

the Consular Service of the United States, but in the walks of public and private life.

If there who bear down are to be sustained instead of those who try to build up, then is it not time for they who labor earnestly, and in good faith, in the public service, to stand aside and let the bravado and charlatan have full swing:

Our Consular System needs assistance in the direction of encouraging a trusted and dignified Service; one that should be conducted entirely

Outside

outside the arena of party spirit free from that vituperation which characterizes political contests; and those who endeavor to make the foreign establishments of their Government of equal dignity with those of their colleagues who represent the other great Nations, should perhaps have some kindly consideration for their efforts.

I may have occasion to add a supplemental despatch upon this subject.

I have the honor to be Sir.

Your obedient Servant

Daniel E. Sickles

Consul-General.

Shanghai

Form 3.

CABLE MESSAGE.

THE WESTERN UNION TELEGRAPH COMPANY.

All CABLE MESSAGES received for transmission must be written on the Message Blanks provided by this Company for that purpose, under and subject to the conditions printed thereon, and on the back hereof, which conditions have been agreed to by the sender of the following Message.

A. R. BREWER, Secretary. NORVIN GREEN, President.

489 Day

Received at Washington DC

Nov 27 1879

To Payson, State Department
Washington

See my Numer fifty eight mailed November tuelfth

Bailey

13 Shanghai
feq

Use other side

Ack

O.K.
Wood

59] 2 December 1879 United States Consulate General at Shanghai,

Bailey Consul General. to the State Department,

Subject:— Slavery in China

Rec'd in D.S. Jan 17.

DEPARTMENT OF S. JAN 7 1880 RECEIVED

ABSTRACT OF CONTENTS.

Ack Jan 6

Transcribing extracts from Hongkong and Shanghai Newspapers bearing upon the above subject.

Gives new evidence in support of statements made in despatch No 47 of the 20th October which shows that Slavery exists, in China and wherever Chinese live.

Enclosures

No 1. (In Print) decision of Sir John Smale, Chief Justice Hongkong

" 2. " Editorial from the Hongkong Daily Press upon this decision

" 3. " Extracts from an Editorial in the N.C. Daily News on the same.

" 4. " Memorial of the Chinese in Hongkong to the Governor of the Colony

" 5. " Editorial from the Hongkong Daily Press on this Memorial.

No. 59

United States Consulate General,

Shanghai, 2 December 1879

Hon. Charles Payson

Third Assistant Secretary of State,

Washington, D.C.

Sir,

Referring to my despatch No 47, of the 20th October 1879, Covering a paper on the subject of "Chinese Slavery", I now have the honor to transmit, herewith, same documents, in print, extracted from the Hong Kong and Shanghai Newspapers relating to the same subject.

Enclosure No 1. is the decision of Sir John Smale, Chief Justice of the Supreme Court of Hong Kong, and shows that as long ago as January 1845, the British Government notified all

all residents of that Colony by a Royal proclamation that:

"Whereas the acts of the British Parliament for the abolition of the Slave trade, and for the abolition of Slavery extended by "their own proper force and authority "to Hong Kong, this is to apprise all "persons of the same, and to give notice "that these will be enforced by all Her "Majesty's offices, Civil and Military, "within this Colony;" that at the present time there are at least 10,000. Slaves in the Colony, and that the trade in human Chattels has been continuously carried on under the very eyes of the officials; and that Posters can be seen daily in public places offering rewards for the return of fugitive Slaves.

Enclosure

Enclosure No 2 is an Editorial from the HongKong Daily Press upon this decision

Enclosure No 3 is an extract from a recent Editorial in the North China Daily News upon the same decision, and contains some references to the family law of China, confirmatory of my expressed opinion that the basis of this Slavery is exclusively the Patriarchal family organization.

Enclosure No 4. is a memorial by more than ten thousand of the Chinese Gentry, Merchants and other people of HongKong to the Governor of that Colony praying that the British Laws relating to the Slave trade, and Slavery be not enforced in HongKong.

This

This petition contains the most complete and convincing proof of all the views set forth in my paper on that Subject, and will render ungatary all denials of the existance and prevalence of Slavery in China, or any apology or Vindication relating to its Character.

Enclosure No 5. is an editorial from the HongKong Daily Press upon the petition.

I have to remark that this is not a new Subject to me, and I would refer the Department to many despatches from HongKong printed in the Foreign Relations Correspondence 1871, pages 194 to 221 inclusive, and in 1873 pages 203 to 208 inclusive together

together with others on file in the Department, for the views I then held upon this subject. What I have since seen and learned only tends to make my convictions stronger, that this is real slavery, and that it prevails in every part of the empire, and amongst Chinese wherever they go.

I repeat that Chinese slavery is an outgrowth of the family organization, which so far as we know is as old as Chinese society itself.

I see no hope for its abolition here but in the remodeling of the whole family organization - a herculean task beyond the vision of

of the most advanced Chinese Statesman of this generation.

It is significant to note that the Colony of Hongkong, where it is now settled by a judicial decision of its supreme Court, and by admissions in solemn memorial of all the leading native residents, that Chinese Slavery exists, and ever has existed, as an essential feature of the Chinese political and social system, is the entrepôt for all the Chinese + emigration to the United States. And perhaps it is worth while to query, whether that emigration is not thus shown to have in its very lineaments the taint of human Slavery?

I have

I have the honor to be,

Sir,

Your Obedient Servant

Saint H. Hair

Consul General

[Inclosure No. 1.]

SUPREME COURT, 6TH OCTOBER.

Criminal sessions.

Before the Hon. Chief Justice, Sir John Smale.

DECLARATION BY THE CHIEF-JUSTICE THAT SLAVERY IN EVERY FORM IN HONG-KONG IS ILLEGAL AND MUST BE PUT DOWN.

Five prisoners were placed in the dock for sentence, having been severally convicted at these sessions of kidnaping a child, of detaining two children with intent to sell them, and of selling and purchasing a child for the purpose of prostitution.

The chief-justice, on taking his seat this morning said: "On the criminal calendar for September, 1879, three cases now by adjournment come on for the court to pass sentence on the prisoners convicted. Case No. 1, R. *v.* Lee A Kau, convicted on the 18th of September last of having (first count) feloniously and unlawfully and by fraudulent means enticed away one A Ngan, a child under the age of 14 years, to wit, 8 years, with intent thereby to deprive one Au A Ho of the possession of such child, on the 21st August, 1879, and (second count) having feloniously detained the same child in the same manner. Case No. 6, R. *v.* Tsang Sz Tau and U Ain, convicted on the 23d of September last on four counts of (1) having detained against his will a boy named Ho Po Sing with intent to sell him in this colony on the 30th May, 1879; (2) fraudulently detaining same boy at same time with intent to sell him; (3 and 4) like charges as to a boy called Yeung Shing. Case No. 9, R. *v.* Keung A To and Li A Kak, convicted on the 20th September last; as to Keung A To, of having purchased a female child named Tiu Heng for the purposes of prostitution in this colony on the 4th March, 1879; as to Li A Kak, of having sold the same child for the same purpose at the said time. Various causes have occasioned delay in passing sentence, of which I will only refer to one—the gravity of the fact that these and other cases have recently brought so prominently to the notice of the court that two specific classes of slavery exist in this colony to a very great extent, viz, so-called domestic slavery and slavery for the purposes of prostitution. The three cases now awaiting the sentence of the court are specially provided for by ordinances of 1865 and 1872, prohibiting kidnaping and illegally detaining men, women, and children, and no difficulty ever arose in my mind as to the crimes of which these prisoners are severally convicted or as to the sentences due to such crimes, and there is no question as to crimes or punishment of cases where women are smuggled into brothels, some licensed and others unlicensed, or otherwise dedicated to immoral purposes. But the enormous extent to which slavery in this colony has grown up has called into existence a greatly increasing traffic, especially in women and children. The number of Chinamen in this colony has increased and is increasing rapidly, whilst their great increase in wealth has fostered licentious habits, notably in buying women for purposes sanctioned neither by the laws nor customs on the mainland. I hold in my hand a placard in Chinese, torn down from the wall of the Central School, Gough-street steps, in this city. The translation appears at length in the Hong-Kong Daily Press of August 15, 1879. The purport of that translation is shortly that the advertiser, one Cheong, has a purchased slave girl named Tai Ho, aged 13 years. After a full description of the girl, a reward is offered in these terms: 'If there is in either of the four quarters any worthy man who knows where she is gone to, and will send a letter, he will be rewarded with four full weight dollars, and the person detaining the slave will be rewarded with fifteen full weight dollars.' These words are subsequently added: 'This is firm and the words will not be eaten.' I recently spoke in reprobation of slavery from this bench, and in consequence of my remarks a gentleman who tore down this placard gave it to the editor of the Daily Press, and in a letter in that paper he stated that such placards are common, and that he had torn down a hundred such placards.

"Has Cuba or has Peru ever exhibited more palpable, more public evidence of the existence of generally recognized slavery, in these hotbeds of slavery, than such placards as the one I now hold in my hand to prove that slavery exists in this colony? The notices have been posted in a most populous neighborhood and have been in all probability read; they ought to have been, they must have been, read by scores of our Chinese policemen. Important as this colony is politically and commercially, it is but a dot in the ocean; its area is about half that of the county of Rutland; the circumference of this island is calculated at about 27 miles, whilst that of the Isle of Wight is about 56 miles. The cultivated land on this island may be to the barren waste about one-half per cent. and there is no agrarian slavery here in nearly the total absence of farms, and on this dot in the ocean it is estimated that the slave population has reached 10,000 souls! I first became fully alive to the existence of so-called domestic slavery in this colony at the criminal sessions in May last on the trial of two cases. In one case I sentenced two poor, miserable women for detaining a male child aged 13 against provisions of ordinance No. 4 of 1865, sections 50 and 51, to imprisonment with hard labor for 18 months. It appeared that a respectable tradesman in Kowloon gave $17½ for the child and detained him until the friends came from Canton and claimed the child, and then, as against the relatives, he claimed a right to detain the child even against his relatives from whom he had been kidnaped. In the other case, I sentenced a poor, miserable woman for having stolen a female child aged 9 years under ordinance 4 of 1865, section 51, to two years' imprisonment with hard labor. It appeared that one Leung Atuk, the concubine of a compradore in this colony, bought this child for $53 and kept her shut up in a room till the child, looking out of a window upstairs, saw her relative and she was got back only through the intervention of the police. In each of these cases the child kidnaped was bought recklessly by the man and the woman on a guarantee by the sellers, much after the fashion of a guarantee given on the sale of a horse that it was not stolen, each indifferent as to how possession of the child had been obtained. In each of these cases I requested the prosecution of these well-to-do persons, purchasers of these human chattels, who had bought these children, whose money had occasioned the kidnaping just as a receiver of stolen goods buys stolen property without due, or any, inquiry to verify the patent lies of the vendors. I have reason to believe that His Excellency the governor was desirous that my request should, if proper, be complied with, but on reference to former cases it appeared that a former attorney-general had found that the system had been almost, if not altogether, unchecked for many years past, and that in particular when His Excellency had desired to enforce the rights of a father to recover his child he was not disposed to enforce the right because the father had sold that child. On that precedent and other precedents, also mainly in reliance on two proclamations dated the 1st and 2d of February, 1841, by which the free exercise of their religious rites, ceremonies, and social customs was promised to the Chinese (but this was temporary only, "pending Her Majesty's future pleasure"), the administrator of the government in the absence of the governor was advised not to prosecute these two persons. In one of the cases at these sessions now before me, it was in evidence

that Pao Chee Wan, a very respectable man in this colony, took the child three years ago in pledge for $50, and she remained ever since the servant of Chan Atsoi, one of the few respectable real first wives living in this colony, till she beat the child, who ran away and then was kidnaped. I took the responsibility to direct the acting attorney-general to prosecute this man and his wife. The responsibility rests on the attorney-general, and on him alone, as the law officer of the crown, to institute and prosecute proper proceedings. I understand that this Chinese gentleman and lady have left the colony; their absence is to be regretted, as it prevents the trial of a test case not unfavorable to those who contend that domestic slavery as it exists in Hong-Kong is an institution which ought not to be put down. In this case I consider the service was really domestic, the wife being at its head.

"Time was when the coolie trade was said to be not illegal. Since the Kwok Asing case in 1871, no one has contended that it is legal. No one now claims for kidnapers the right to kidnap men, women, or children, or to buy them, or to detain them when bought with notice of the kidnaping for any purpose. No one now claims the right to purchase or detain females for immoral purposes. But it is said that what is called domestic slavery, as it exists in Hong-Kong, is mild, and it is said to be the opinion of a gentleman of great experience in Chinese that as it exists here it is not contrary to the Christian religion, and that it is as general a fashion for Chinese ladies in Hong-Kong to purchase one or more girls to attend on them as it is for English ladies to hire lady's maids, and that the custom is so general that it would be highly impolitic, if not impossible, to put down the system. It may be that slavery as it exists in the houses of the better classes in Hong-Kong, is mild, and that custom among the better classes renders servitude to them a boon as long as it lasts. It is, I believe, an admitted duty that when the young girl grows up and becomes marriageable she is married, but then it is the custom that the husband buys her, and her master receives the price always paid for a wife whilst he has received the girl's services for simple maintenance, so that according to the marriageable excess in the price of the bride over the price he paid for the girl he is a gainer and the purchase of the child produces a good return. But the picture has another aspect; what—if the master is brutal or the mistress jealous—becomes of the poor girl? Certain recent cases show that she is sold to become a prostitute here or at Singapore or in California, a fate often worse than death to the girl, at a highly remunerating price to the brute, the master. It seems to me that all slavery, domestic, agrarian, or for immoral purposes, comes within one and the same category. I proceed to answer the question, does the law of Hong-Kong tolerate slavery in any shape? I believe the whole question rests on the highest principles recognized by all European municipal law. I expressed the conclusion to which I had come in 1871. I extract the words in which I expressed that conclusion from the report of my judgment on the 25th March, 1871, in the Kwok Ashing case, from the only book in which it is printed in an enduring form, the American State Papers: 'The papers relating to the foreign relations of the United States transmitted to Congress with the annual message of the President, Washington, 1871.' I then said, 'The views put forth in this colony compel me to refer to what elsewhere are assumed as axioms. Christianity teaches us that God made man in his own image and breathed into him the breath of life—eternal life. It does so happen that this Christianity is the law of England, of this colony, and modern European philosophy in its own refined language teaches much the same doctrine of man's equality with man, only (as it assumes) on rather more subtle hypothesis. Well, content as I am, and as judge must be, with the law of the land, I must answer the question: Is it possible that such a being as man can, according to law, a science of development according to law A. D. 1871, become a slave even by his own consent? I say it is impossible in law, as Sir R. Phillimore, 1 Phill., International Law, vol. I. p. 316, has said in a passage I read with the most respectful concurrence, but too long for full quotation. "Of this great truth its sound has at last gone out into all lands and its voice unto the ends of the world." A man can no more, as I infer from the same high authority, by contract be authorized to take the liberty than to take the life of another. The proposition long ago enunciated by Locke (who was in almost a minority of one in his time), a proposition now universally accepted in morals, appears to me to flow from the first principles of English law as they have been developed at the present time. French law is the same as English law as to the right to personal liberty, "En France quiconque a mis le pied dans ce royaume est gratifié de la liberté."—*Ib.*, 341. It is unnecessary for me to trace how it became the common law of England that whoever breathes the air of England cannot be a slave.

"I must, however, go back to 1771, when Granvill Sharpe brought the question before the court of Queen's bench. In Somerset's case, Lord Mansfield said that there were 14,000 or 15,000 negroes claimed as slaves then residing in England, valued at £700,000 at that date. The *de facto* existence of slavery in England at that date was somewhat similar to the *de facto* state of slavery here as to the number of slaves and the alleged hardship to slave-holders. He saw the difficulties, the disorganization, the ruin which must follow his decision, but he said *fiat justitia ruat cœlum;* and the court unanimously decided that, notwithstanding the promises which had been given to the Jamaica planters by former governments, that they might bring their slaves to England and take them back to Jamaica, relying on which they had brought their slaves to England, that the law overrode all such promises, that they could not be taken back, that they were free. The golden words of Lord Mansfield were these: 'The state of slavery is of such a nature it is incapable of being introduced on any reasons moral or political, but only by positive law. . . . It is so odious that nothing can be suffered to support it but positive law.' This is the language more than a century since uttered by no soft-hearted humanitarian, but by the Conservative Tory, the greatest Chief Justice of England, whose fame Junius assailed and whose library the mob burnt at a time when the slave trade flourished and slaves in the colonies were bought and sold in England. I quote from 20 State Trials, p. 82. Resting on that decision and relying on very many other grounds, I am clearly of opinion that slavery, however mild, however much consented to by the slave himself or his parents, or for however limited a period, is contrary to, that it is prohibited by, the common law of England. In the colonies slavery never existed except under positive enactment authorizing it. Has it ever been tolerated in Hong-Kong? I emphatically answer, Never. The two proclamations of 1841 I have already referred to are governed by the words 'pending Her Majesty's future pleasure,' in the second of the two forming one proclamation. Her Majesty was pleased to constitute this as a crown colony with a legislative council, and with these proclamations present to their minds the first ordinance of the legislative council No. 1 of 1844 was an ordinance to define the law relating to slavery in Hong-Kong. Well, it was a clumsy piece of legislation. It was passed on February 28, 1844, and it was disallowed by the Queen, of which notice was published in the colony on the 24th of January, 1845, probably as soon as it was possible in those days, and on the same day a proclamation was issued in these words: "Whereas the act of the British Parliament for the abolition of the slave trade and for the abolition of slavery extend *by their own proper force and authority* to Hong-Kong, this is to apprise all persons of the same and to give notice that these acts will be enforced by all Her Majesty's officers, civil and military, within this colony." What becomes of the argument in favor of slavery in any form founded on the proclamations read with this proclamation? I ask a further question: Have all Her Majesty's officers, civil and military, enforced these acts within this colony? I think they have not; I confess that I have not. Our excuse has been in the difficulty in enforcing these acts, but mainly in our ignorance of the extent of the evil. What is our duty

now that we know that slavery in its worst as in its best form exists in this dot in the ocean to the extent of say 10,000 slaves—a number probably unexceeded within the same space at any time under the British Crown, and so far, as I believe, the only spot where British law prevails in which slavery in any form exists at the present time? But can Chinese slavery as it *de facto* exists in Hong-Kong be considered a Chinese custom which can be brought within the intent and meaning of either of the proclamations of 1841 so as to be sanctioned by the proclamations? I assert that it cannot.

"I say this, as at present advised, in the absence of argument. A custom is 'such a usage as by common consent and uniform practice has become the law.' In 1841 there could have been no custom of slavery in Hong-Kong as now set up, for save a few fishermen and cottagers the island was uninhabited, and between 1841 and 1844, the date of the ordinance expressly prohibiting slavery, there was no time for such a custom to have grown up; and slavery in every form having been by express law prohibited by the royal proclamation of the Queen in 1845, no custom contrary to that law could, after that date, grow up, because the thing was by express law illegal. I go further, and I find that the penal law of China, whilst it facilitates the adoption of children into a family to keep up its succession, prohibits by section 78 the receiving into his house by any one of a person of a different surname, declaring him guilty of 'confounding family distinctions,' and punishing him with sixty blows; the father of the son who shall 'give away' (the idea of sale seems unknown to Chinese law) his son is to be subject to the same punishment. Again, section 79 enacts that whoever shall receive and detain the strayed or lost child of a respectable person, and instead of taking it before the magistrate sell such child as a slave, shall be punished with 100 blows and 3 years' banishment. Whoever shall sell such child for marriage or adoption into any family as a son or grandson, shall be punished with 90 blows and banishment for two years and a half. Whoever shall dispose of a strayed or lost slave shall suffer the punishment provided by the law reduced one degree. If any person shall receive and detain a fugitive child, and instead of taking it before the magistrates sell such child for a slave, he shall be punished with 90 blows and banishment for two years and a half. Whosoever shall sell any such fugitive child for marriage or adoption shall suffer the punishment of 80 blows and two years' banishment. In each of the above-mentioned cases the punishment shall be less by one degree if the fugitive should be found to be a slave. All fugitives so disposed of shall suffer punishment one degree less than that inflicted on the seller, except when the previous offense of the fugitive shall have been the greatest, in which case the severer of the two punishments to which he is liable shall be inflicted. Whosoever shall detain for his own use as a slave, wife, or child, any such lost, strayed, or fugitive child or slave shall be equally liable to be punished as above mentioned, but if only guilty of detaining the same for a short time the punishment shall not exceed 80 blows. When the purchaser or the negotiator of the purchase shall be aware of the unlawfulness of the transaction he shall suffer punishment one degree less than that inflicted on the seller, and the amount of the pecuniary consideration shall be forfeited to government, but when he or they are found to have been unacquainted therewith they shall not be liable to punishment and the money shall be restored to the party from whom it had been received. After reading these extracts from the penal code of China—an old code revised from time to time (I quote from the last revision, made in 1875 and published in 1877)—I cannot see how it can be maintained that any form of slavery was ever tolerated by law in Hong-Kong as it *de facto* exists here, or how the words of the two proclamations of 1841 could be said to bear the color of tolerating slavery under the English flag in Hong-Kong. It is to me clear that the Queen's proclamation of 1845, which I have already quoted at full, declared slavery absolutely illegal here. In conclusion, I affirm that to sell or to buy or to hold or detain a man, a woman, or a child, as a slave or as property is absolutely prohibited by the law of England, which law is imported into and forms the substance of the law of Hong-Kong by virtue of ordinances 6, of 1845, and 12 of 1873. I hold it to be contrary to the public morals which form a part of that law, and that it ought to be put down. As at present advised, I believe that the law as it exists is strong enough and that its arm is long enough to reach all illegal acts contrary and offensive to public morality or public decency. The attorney-general on a former occasion thought fit to press the court to instruct him how to frame his information in a case which the court had directed to be prosecuted. The supreme court has habitually directed prosecutions in cases in which from what appears in court it seems to the judge proper that a special matter should be judicially investigated. This has been very frequently done in cases of perjury, but the court stops there—the responsibility of proceeding or not proceeding with every case is by law imposed on the public prosecutor. If the judge directed the frame of the information he would have prejudged the case. After framing the prosecution he would be in a sort bound to uphold the information so framed by him, whether right or wrong; he would be at once prosecutor and judge. I add that it is not the duty of the executive to direct the public prosecutor what he is to do, because the law casts the whole responsibility on the public prosecutor himself. I may, however, say that it is a general proposition that whatever is prohibited by the common law or by express enactment, for which no other remedy is provided, may be treated and is a misdemeanor, if contrary to public policy or morals. Until it shall be tried and decided whether any particular breach of such prohibition is a misdemeanor it cannot be said to be beyond the reach of the law. If and when any particular breach of the rules of the common law be determined by the verdict of a jury or by judicial decision to be beyond the reach of punishment, but not till then, it may become the duty of the public prosecutor to abstain from prosecuting for it, and to ask the executive to consider whether it would be right or proper to provide a remedy for the specific breach of the rules of the common law which the law as it stands shall have been shown not to reach. I feel that in what I have said I have but affirmed truisms supported by arguments unnecessarily long and prolix in the estimation of every man in England. What I have said has been said to meet arguments, doubts, and difficulties which have paralyzed public opinion and public action here, which arguments, doubts, and difficulties are the less easy to combat because they have been rather hinted at than avowed. What I have intended to affirm I may briefly state thus: 1. That in England, by the common law, slavery in every form has always been and is prohibited; that no one can acquire any right over the person of another; that no man can sell his own person into slavery; that a parent has no salable property in his child; moreover, that every such sale is *nudum pactum* absolutely void; that money paid, on any such sale cannot be recovered back; but that the man bought must be restored to liberty, and the sold child to his parent, as if no money had been paid; that no purchase money can be recovered back, and that the crime in buyer and seller must be punished. 2. That slavery has never been introduced into any British colony except by positive law; so said Lord Mansfield. 3. That all slavery was abolished throughout the British colonies in 1833, when England nobly made a present of £20,000,000 as a boon to the slaveholders. 4. That Hong-Kong became a British colony not until 1841, and then slavery had been absolutely prohibited by force of both the common and the statute law then existing. 5. That by the proclamation of the 24th of January, 1845, the Queen promised and undertook that the English laws against slavery will be enforced by all Her Majesty's officers, civil and military, within the colony. 6. That the obligation to enforce these laws is, therefore, absolutely imposed by the Queen on every civil and military officer, here as if the obligation had been especially written at length in his commission or warrant of office. 7. That, these laws not having been enforced, each officer has failed in his duty to the Queen, and that the

only excuse any one of us can urge for such failure in duty is ignorance of the existence of the extent of slavery here. 8. That it being now patent that there is now a very great number of slaves (say 10,000—the number has been estimated at even 20,000) in this colony, ignorance can no longer be our excuse, but that all officers of the Queen in this colony, each in his department and to the best of his ability, must henceforth effectually enforce these laws or fail in the duty imposed on him by the Queen. Of this I feel assured by his previous acts, that his excellency, the governor, will actively promote all such proceedings as will tend to enforce the laws against slavery here, so that this colony may become as free from that taint as any other colony under the British Crown, by enforcing laws already in existence, and, if necessary, by passing laws, however stringent, that shall free this colony effectually from all slavery."

Hu Akow, convicted of unlawfully enticing away a child under the age of fourteen years, was then called on. He was arrested as he was taking the child on board the Macao steamer. He now repeated what he said at the trial, that he did not kidnap the child, but that it belonged to his mother-in-law.

HIS LORDSHIP. And didn't he take it without his mother-in-law's leave?

PRISONER. The child followed me on to the steamer.

HIS LORDSHIP. And you induced the child to do so. You have said nothing that can mitigate your case. What you have said shows that your heart is as hard now as when you took that child. The sentence on you is that you be imprisoned for two years with hard labor, and that you be kept in solitary confinement for fourteen days at each time once in every three months of your imprisonment.

Tsang Sz Tow and U Ain, convicted, on two counts, of unlawfully detaining by force two boys with intent to sell them, and on two others with detaining the boys by fraudulent means, with intent to sell them, were next called on.

The first prisoner admitted having one of the boys, but said it was presented to him to adopt as his own child.

His lordship said that was no defense, but on the other hand there was not a particle of evidence in support of it, because the child did not speak the language of the prisoner; it had evidently been brought from a great distance.

The second prisoner said he had nothing to do with the first prisoner. He only took the child to be a barber, and no one saw him hawking it or offering it for sale.

His lordship, addressing the first prisoner, said his case was one of the worst he had known. He had brought the children manifestly from a long distance, because their language was unintelligible here. On the first and third counts (detaining by force) the sentence of the court was that he be kept in penal servitude for three years, the sentence on each count to be concurrent, and that on the other two counts he be imprisoned for a year, also concurrent with the first sentence.

The second prisoner was sentenced to eighteen months' hard labor. His lordship said this man's case was a very much lighter one than that of the first prisoner. Although there was nothing in his excuse, yet his possession of the children was of a very different character from the possession by the first prisoner.

Keung Ato and Li Ak, convicted, the former of buying a child for the purpose of prostitution, and the latter (a woman) with selling the child for the same purpose, were each sentenced to eighteen months' hard labor.

[Inclosure No. 2.]

The remarks of the chief justice yesterday in passing sentence on the prisoners convicted of trafficking in children will be read with general interest. They are undoubtedly entitled to the earnest attention of all members of the community, and will no doubt receive it. Sir John Smale lays down the law on the subject, and pronounces most emphatically that slavery has never been tolerated in Hong-Kong; the law against it has always existed, but has not been enforced. He draws attention to the fact that subsequent to the royal proclamations constituting Hong-Kong a crown colony with a legislative council, an ordinance to define the law relating to slavery was passed, but was disallowed by the Queen, and on the 24th January, 1845, a proclamation was issued, saying: "Whereas the acts of the British Parliament for the abolition of the slave trade and for the abolition of slavery extend *by their own proper force and authority* to Hong-Kong, this is to apprise all persons of the same, and to give notice that these acts will be enforced by all Her Majesty's officers, civil and military, within this colony." The chief justice considers that this disposes of the argument deduced from the first proclamation inviting the Chinese to settle here, and promising them the free exercise of their religious rites, ceremonies, and social customs. He goes on to argue that Chinese slavery as it *de facto* exists in Hong-Kong cannot be considered a Chinese custom which can be brought within the intent and meaning of either of the proclamations of 1841, and quotes from the law of China to show that it has no legal sanction there. But it cannot be doubted that it exists in every part of the empire in practice if not in law. It was only the other day that an imperial decree was solicited by Tso Tsung-tang, the viceroy of Kansuh, condemning the children and relatives of the late ameer of Kashgaria, some to slavery and others to a worse fate. We could quote from several of the best writers on China and Chinese customs to show that slavery is a recognized institution of China, but this fact will hardly be contested, we imagine, when it is so patent to all who know anything of the social customs of the Central Kingdom. It is indeed recognized in the Chinese law quoted by the chief justice.

The chief justice frankly admits that the government has failed in its duty in not enforcing the law of England in this colony, and thus preventing slavery. In the mild form of domestic service, and in another unutterably detestable form, slavery has for nearly forty years existed in Hong-Kong with little check or hinderance. It is certainly high time that the government woke up to a sense of its responsibilities. That slavery of all kinds should be put down most people are agreed. On the method of accomplishing this eminently desirable object there is undoubtedly some difference of opinion. The government of this colony has suffered a system of domestic slavery, not very harmful in itself, perhaps, but liable to great abuses, and opposed both to the spirit and letter of British law, to grow up here during a long period of years, and it would be inequitable now to suddenly pounce down upon all offenders, without notice, and say to them: "You are guilty of a breach of law, and therefore we must punish you."

It must be borne in mind that the Chinese, by their training, by the practice of officials in their own country, learn to look upon the law as a thing to be evaded, and they have, in this particular instance, we regret to say, been confirmed in a belief that they can do the same here by the immunity from interference hitherto experienced. If this system of slavery is to be put down effectually and with justice to all parties it must be done gradually, and with some regard both for those held in bondage and those who have either ignorantly defied the law or have imagined it to be a dead letter. A proclamation should be issued setting forth that all those persons held in compulsory servitude are at perfect liberty to leave their masters and mistresses if they choose; that henceforth any person found purchasing any one, for whatever purpose, will be prosecuted with the utmost rigor of the law; and that any one detaining another in bondage shall also be dealt with according to law. It would be absurd and unjust to commence prosecuting all the Chinese who hold domestic slaves. We have not the slightest doubt that all these persons will be content to enter into agreements with their servants to employ them either for a monetary or other proper consideration. As for those unfortunate beings who fill the brothels of the colony, another mode of procedure will have to be adopted, and there will no doubt be more difficulty in suppressing this iniquitous traffic.

While we feel bound to condemn the supineness of successive administrations in not attempting to grapple with the evil and scandal which has grown up under the ægis of the British flag, it would be extremely unfair to blame any particular official or department, and no doubt there is some force in the plea of ignorance set up by the chief justice, although we cannot accept it as a satisfactory excuse for all the neglect and blindness of nearly four decades. However, "better late than never," though an old and trite maxim, is a good one, and we trust that the traffic in human flesh will soon be a thing of the past in Hong-Kong, as it has become in other portions of Her Majesty's dominions. We feel confident that the respectable portion of the Chinese community will feel the justice and necessity of conforming to British law when they clearly understand it. In repairing its past mistakes, the government of Hong-Kong must take care that the burden of them does not descend upon those who by its own inaction have been led to perpetuate a system which should not have been allowed to be introduced into the island. If the crusade inaugurated by Sir John Smale be conducted on these principles, having regard to existing circumstances of employers and employed, the Chinese will have naught to fear and little to lose. No real revolution would need to take place in their habits and customs, and only the cruel kidnaper and the vile procuress would have cause to tremble. We cannot doubt that this is the spirit in which the government will take up the matter. To proclaim a sudden and unrelenting war upon all holders of slaves in the colony, without regard to circumstances, would certainly be attended with unfortunate results, besides inflicting much unmerited hardship upon numerous individuals.

[Inclosure No. 3.]

CHINESE PETITION ON THE SLAVERY QUESTION.

We give the following translation of a petition sent in to his excellency the governor by the Chinese community on the slavery question:

PETITION BY THE GENTRY, TRADERS, AND [OTHER] PEOPLE OF THE WHOLE OF HONG-KONG.

In the matter of a prayer that in graciousness an alteration to accommodate will be made in the tenor of the laws [to the end that] discrimination between the good and bad (the terms actually used are derived from a classical source, and signify the turbid waters of the King and the crystal of the Wei) be made, and the wishes of the people be humored and compassionated [on a point dear to] their hearts.

In consequence of the propinquity of this colony of Hong-Kong to Canton, the custom of which province is to permit the people of the various places in the province to frequently sell their daughters and barter their sons that they may be preserved from death [by starvation, the usage has become engrafted on to this colony also].

Owing to the Chinese officials never having issued prohibitory laws [against the sale of children], for ages in succession [this species of transactions has grown to meet with the sellers' and buyers'] reciprocated approval.

Of late, in consequence of certain vagabonds greedy after profit having ostensibly sold children into [domestic] slavery while in reality they disposed of them for prostitution abroad, [the result has been the two descriptions of transactions have become] confused, as if they were jadestone and inferior gems mixed together. This is [a matter] quite sufficient to create anger.

Last year there was presented a petition to the authorities praying it might be [allowed to] establish a protection society with the view of eliminating this custom (the term "evil" is evidently intended), from which it may be seen that the petitioners detest the villains [who commit the offense alluded to] as enemies.

As to [such cases where] boys are purchased for adoption and girls as [domestic] slaves, [these transactions are] compared with those [above spoken of] very widely different.

The purchase of boys is because the buyers have no descendants, and it is desired to fall back on the *ming ling* (in allusion to the Chinese myth that the *ming ling* caterpillar discards its young, which the *kwo lo* or sphex adopts as its own) for succession.

The purchase of girls is because of the multitudinous duties of a household, the labor of which it is desired they shall for a time assume. During the childhood of these bought children it is necessary they should be taught [domestic duties] and be fed and clothed; and when they are grown up that they should be provided with a wife or a husband [according to the sex of the individual]. Their convenience is consulted, they not being compelled to perform arduous work.

All past authorities [of the colony] have clearly understood the customs of the natives of China and have avoided binding us with the bonds of the law; and, following a liberal [form of administration], abstained from investigating [the relations between slave and master].

It appears that in the year 1841 His Excellency Governor I (Elliot) issued a proclamation in effect that he desired to encourage colonization [of this island], stating that all Chinese who took up residence in Hong-Kong would be permitted to retain their customs [under English] administration of the colony's affairs. In consequence, those living in the place were delighted; and those at a distance were induced to come [and reside] in Hong-Kong, where each day has reflected the prosperity [of the one preceding it].

It has now been learned that the chief justice, in trying a case of selling a virtuous [girl] to be a prostitute, uttered in his decision [the statement that] all sales of slave girls are indictable as offenses. The people of Hong-Kong are really in much trepidation [in consequence]; and while the honest trader and the wealthy [Chinese] resident are in constant dread of violating the laws of the sovereign, [on the one hand, on the other] the poverty-stricken inferior orders are afraid that there will be left no means of insuring life to their offspring. Amongst the Chinese there has hitherto been the custom (meaning "vice") of drowning their daughters. If a stop is put to the sale [of these girls] the custom [spoken of] will be yet more observed. Again, not having this means of profit to feed themselves by, it is to be really feared the parents will become thieves.

[The petitioners] are presumptuous enough to suppose that his excellency regards the sorrows of the people with a compassionate heart, and cannot bear that the resourceless people should be bound up to await death, and, therefore, prostrate pray [his excellency] to overlook the [objectionable] usage, and abstain from upsetting the [hitherto existing mode of] administration [of matters connected with the natives]; and that [his excellency will be pleased] to, on their behalf, memorialize the Court [of St. James] beseeching that the [custom amongst the Chinese of buying boys for descendants and girls for [domestic] slaves [may be permitted]; and that the law which regards the purchase of children as unjustifiable [whatever the reason for which they be bought] be abrogated, and others enacted [that shall admit of] an arrangement [permitting the usage obtaining amongst the natives, but punishing any abuse of it]. Whenever there are sales of virtuous girls to prostitution or sales of kidnaped children [it is right that] these offenses should be followed by severe punishment, and then the poor and rich would alike have their minds put at ease; and under such circumstances the gratitude due for such graciousness would be unbounded.

Following there will be found ten detailed observations which are submitted [for his excellency's] inspection; and the [petitioners] prostrate pray that his excellency will take this petition into consideration and act [upon the suggestions offered].

Additional arguments, ten in number, submitted for considerate inspection [which] prostrate [it is besought may be] perspicuously and in extra degree examined, a perspicacious opinion formed and carried into execution:

1. In China, for successive ages, in the matter of dealing with boys and girls, they have been bought for lineal male descendants, for daughters, for prostitutes, and for [domestic] slaves. Whether for one purpose or whether for another, the transactions have been willingly entered into. Where there has been no decoying, kidnapping, or forcible abduction, the laws have not inhibited [these dealings]. [The purchasing] has not been confined to the common people, but even for the families of officials of all grades also [have slaves been bought]. [This sort of thing] became necessary because the people of China daily became more numerous, the poverty-stricken multitudinous. Therefore the government, recognizing the existence of a necessity [for the sale of children], enacted laws in the hope that [by thus meeting the exigency] much suffering to the people might be prevented. If, following out the laws [of Great Britain, the sale of children] be at once stopped, the poor and those in straits will have no means of sustaining life and will have nothing for it but to sit down and die. Owing [to the gravity of the position of affairs] was it that [China] enacted permissive laws [in reference to this matter]. But in these laws the sale of virtuous girls to prostitution, forcible abduction, and decoying, being unworthy acts [provision is made] for the unmerciful suppression of them; in some cases the crimes being regarded as deserving of capital punishment. Nevertheless, these transactions [whether of an odious nature or not] are all buying and selling; [hence, therefore, the necessity] in dealing with them to discriminate those carried out with worthy motives and those of a different nature, those of a criminal character and those the reverse.

2. This [colony of] Hong-Kong adjoins [as it were] the city walls of Canton and is a continuation of the rustic districts [of the province]. From the time of the opening [of this place] until now is forty years, [during which period] it has grown to be highly prosperous. Within the last few years many Chinese have brought their wealth and families where they have considered themselves secure in peaceful safety and fortunate possessions. Those who considered the reasons [of such an auspicious state of affairs, have found them] in the judicial uprightness of the English authorities, who avoided harassing the people. Hence those seeking residences desired to become of the colonists, and traders sought to store in its markets their goods (Mencius adapted). From the outset of the establishment of Hong-Kong, Governor I (Elliot) proclaimed that he desired to extensively induce the advent [of Chinese into the colony], saying thenceforward Chinese residing in Hong-Kong should be permitted to follow their native customs, and that all who avoided contravention of the laws of China [would be welcome, and it was trusted they] would continue to evince such law-abiding conduct. Those who speak [of the invitation alluded to] allege that Hong-Kong owes its present prosperous foundation to Governor I's action in inducing [the settlement of the colony by Chinese]. Now, in this matter of buying and selling children for descendants and as [domestic] slaves, if it is desired in a moment [without any warning] to proceed against [slave-purchasers], not only will the late governor's, (Elliot) proclamation be violated, but it is to be more than feared it will not fail of bringing the inhabitants to grief [who have been betrayed into illegal acts by that proclamation].

3. In China, amongst the evils heretofore existing, the custom (evil) of drowning [superfluous] female infants [has been rife]; in the Kwang-Tung province more especially so. Numbers of the extreme poor cannot supply even themselves with raiment and food. [When, therefore,] the added cares brought by children ensue, these people, having no one to receive their progeny from them, will immediately on bringing them forth destroy them by drowning. This custom (practice) has, as against past time, somewhat decreased in frequency of observance; but although this is a determined violation of [natural] law, still impecuniosity brings suffering on them [in proportion to its extent, and, in consequence] they have nothing for it [but to destroy their offspring]. If, as to the buying and selling of male and female children, the custom be terminated irrespective of any considerations [extraneous to the mere transactions themselve], it is to be anticipated with sorrow, that on a future day the custom will of a certainty receive an impetus hitherto (it is a question whether reference is made to all times or whether to recent years) unknown. In the destruction by drowning [of children we have a violation of the gratitude due to the] Creator's benignity. What, then, better than to permit them to dispose [of these ill-fated children in such a way as] to preserve their lives.

Another consideration: Families purchasing children, as a matter of course, are better off to some extent as to clothing and food than are parents [who sell them], and there is not the least reason to dread that the discomforts of starvation and hardship will overtake them. It is considerations such as these that constitute the amenities of giving and receiving children [for monetary consideration].

4. When parents sell their children it is of course under circumstances of extreme difficulty, futile scheming, and exhausted strength; and unless they adopt this mode they have left no honest means [of obtaining money]. Under such circumstances of distress alone can they bear to part with their children. Sellers [when they are the parents themselves] seeking to sell are, undoubtedly, from the outset willing vendors, and there is not the slightest compulsion whatever; and as to the buyers, they regard themselves as affording relief to the necessities of others, somewhat as if they were doing a charitable action. When buying children, during their youthful days it is absolutely requisite they should be clothed and fed, and cherished and taught, and if they are sick medical attendance is invited to cure them. When they are grown up, if the purchase is a boy, why then he is found a household (a wife), in the hope he may turn out well. If a girl, why then for her is selected a good husband, that her afterlife may be happy. The love and protection expended on them is greater than they would have received from their own parents. Is treatment like this to be set on a par with that [species of sale] which condemns to a lifetime of slavery? [Hence the necessity for discrimination in these matters.]

5. In China [the people pay] obedience to Confucianism, that is, the teachings of Confucius and Mencius. Mencius says there are three kinds of unfiliality; to have no descendants is the chief; therefore most people who have no descendants regard the adoption of a son as of primary importance, and consider that to be called unfilial is to be stigmatised severely. If a man be personally indifferent to such matters his relations and friends implore him [to follow the usual course]. Hence it is that the purchase of boys for descendants is generally due to such causes. Since one may buy another's son to become one's own, then, of course, one may also buy another's girl to be one's own daughter. This is amongst the most important of Chinese customs. [It is hoped, therefore, that his excellency] will condescend to closely consider [this point].

6. Some days ago the Chinese traders of Hong-Kong submitted a petition before his excellency's presence praying [that there might be permitted] to be formed a protection society for the special purpose of preserving women and children from falling [into the hands of] the villainous kidnaper. [From which it] will be perceived that the [petitioning] gentry and others detest these scoundrels as if they were [their own personal] enemies; and that they cannot bear to see this class of scoundrels causing trouble in sympathetic, loving English territory, because their trade is but decoying and kidnaping, which are the means of livelihood to a dishonest section of traffickers, who hold the source of their profits as invaluable. Compared [with such villainy] the open, moral purchase of boys and [domestic] slave-girls [presents a phase] widely different, [and by a consideration of the subject] it is possible to separate those with good motives from those with bad.

7. Some few years ago, when H. E. the Governor Kin (Kennedy) first assumed the administration here, the gentry and others perceiving in Hong-Kong libidinous excesses running riot, and that such licentiousness ("habit" says the petition, be it observed) was injurious to the morals of the people, and, further, that women were being kidnaped and decoyed to foreign places for prostitution, [and finding that such] improper matters were what the compassionate ("honest" saith the petition) eye could not bear to look on [with indifference, a deputation] personally waited on Governor Kin praying him to institute rigorous measures for the suppression of the evils. At that time Governor Kin considered that the suppression of licentiousness was a matter of somewhat difficult a nature upon which to take action, because of the decided obstruction presented to such a course by the laws of Great Britain insuring the liberty of the subject. Still, [he found himself bound to do something, and, therefore,] suggested (*lit.* "made") a law in which all classes [of offenders against personal liberty] were included, to the end that these [rascally people] should be gradually eliminated, inquiring what the deputation thought [of its provisions]. With one accord they pronounced it excellent; and hence was enacted the ordinance of 1875 [which prescribes the penalties for offenses of kidnapping, &c].. It is the opinion [of the petitioners] that the intention of Governor Kin at that time was to put down decoying, kidnaping, forcible detention, conspiracy to drive to prostitution, and the selling of virtuous girls to putanism; and that it was not that governor's intention that the 7th and 8th clauses of that ordinance should actually include such an extensive [field] as would permit of those who purchase boys for adoption and girls as [domestic] slaves being held guilty of criminality. And there is to the minds of the petitioners much that is unexplainable [in this matter]. Is it not possible to, in a measure, so modify the ordinance as to meet the wishes of the people?

8. In China the ordinary usage in purchasing children is widely different from that in buying goods. With regard to goods, the buyer has entire control and may dispose of or retain at pleasure; but as to the purchase of children, that is not the same, for in the case of buying a girl as a [domestic] slave her parents may frequently visit her and may redeem her at any time. When grown up [and it is intended] to give her in marriage, it is necessary her parents should be made acquainted with the intention and that the girl's own willingness be ascertained. If the buyer (master) is cruel to her by treating her with severity, or should he maltreat her to death, or if all trace of her be lost, her parents, together with her near relations, may all attend upon the authorities and demand an investigation. Therefore, families losing a slave girl always issue a reward and institute steps toward a search, with the determination of recovering [the lost child], until when they do not cease [their efforts], because they are afraid that the parents will have an investigation [before the authorities]. Thus such treatment [of slave girls shows that] proprietors have not plenary power [as to them], the slaves themselves having a considerable voice (*lit.* half a will) in their own disposal. Compared with life-long slavery, is not [the system in vogue] as different as the clouds are wide apart from the earth? Formerly China exercised a rigorous prohibition over the sale of coolies (*lit.* pigs). Now they have signed treaties with Peru and Spain permitting [those countries] to invite labor. [In the first case] the "pigs" were obtained by false representation and kidnaping; [in the second] the laborer goes to please himself. In both cases [the procedure is] the same [*i. e.*, both classes were conveyed to foreign countries], but yet the difference is as great as the heavens are widely separated from the earth. And is not the distinction of the same character [*i. e.*, as to extent] between the kidnaping of women for prostitution and the buying of boys for descendants and of girls for [domestic] slavery? The wise man will, without fail, distinguish between the King and the Wei. (See introductory paragraphs above for an explanation of this excerpt from the classics.)

9. The registrar-general's department, amongst other things, supervises the [licensed] prostitutes' registration tickets. Amongst the prostitutes of Hong-Kong those who have been bought number 80 or 90 per cent. This is a matter that is unknown to no one. If the dealing in males and females is to be an offense, this class of people ought to be the first removed. How is it that from the establishment of Hong-Kong to the present time [these people] have been allowed to continue and have not been suppressed and removed? This [non-interference] shows that successive officials, well knowing Chinese customs, did not [seek to] tyrannize and harass the people.

10. The laws prohibit the purchase of children as slaves, as if really afraid they would be neglectfully reared and tyrannously treated, and thus show a spirit of love and compassion for human kind. [But, as a matter of fact], in the bringing up of [domestic] slave girls it is seen that they are not paid wages for their labor, and in this respect [their status] differs [from paid servants], but in their childhood a fostering care is extended to them, and when grown up they are married [to some one selected by their masters, with their own approval, and they are thus compensated]. The services received [from these domestic slaves] is but for a few years, and in marrying them there is no desire to get large pecuniary returns, [and when with their masters] the raiment and food supplied are more than they would have had [had they remained with their parents]. The daughters of poverty-stricken families [in being sold] look upon the transaction as a new lease of life. If all [slave-dealing is to be] suppressed and terminated, then the girls of poor dwellings will have a means of life entirely cut off from them; and the very consideration felt on their behalf will be turned into [an instrument] of destruction. His excellency cherishes benevolence and love in his heart, and will, of a certainty, be able to arrive at a clear understanding of this subject.

In the foregoing ten observations the petitioners have but roughly set forth [a certain phase of] Chinese customs and the manner of treatment of it by successive English officials with clearness, that the [governor] above them may be made acquainted [with the true bearings of the case], anxiously trusting that he will consider the requirements of the people and condescendingly acquiesce in their desires that [slave-dealing may] be discriminatingly treated. As to the law enacted formerly (query, the ordinance of 1875 before spoken of) applying to this question, would it not be advisable to modify [by way of] concession its provisions, retaining the few [admissible from the petitioners' view] and rejecting the many [that are opposed to their requirements]?

Hereafter, in the matter of dealing in children [by way of meeting the stringent laws of the British Empire as to slavery], could not a regulation, clearly worded, [be made demanding the registry of all sales, and that the children] shall not be treated cruelly.

Respectfully, [the petitioners] await a decision, [adding that this provision would not be harmful in the government of the people; and the poor and the wealthy would feel at ease, and the whole of Hong-Kong [Chinese] would be benefited thereby.

(Signed) CHU U TIN,
KWOK CHEONG,
FUNG MING SHAN,
FUNG PAT HING,
WONG QUAN TONG,
LEUNG ON,
WONG SHU TONG,
PANG YAT PO,
LEUNG LUN PO,
FUNG HIN TING,
HU HO CHUEN,
CHUN CHUK CHEE,
CHUI SOEY SHANG,
KWOK NAM PING,
&c.

[Inclosure 4.]

The Daily Press.

HONG-KONG, *October* 25, 1879.

The Chinese memorial to his excellency the governor on the question of slavery in Kong-Kong, a translation of which we give *in extenso* elsewhere, may be taken as fairly representing the views of the bulk of the native population. In criticising this document, we are actuated with a sincere desire to do justice to all parties. The question is one that so intimately affects the social life of the Chinese resident in this colony that no rash or hasty decision should be come to on the subject. The petition before us sets out with a prayer that an alteration may be made in the laws of the colony whereby the custom or practice of purchasing children for adoption or for domestic servants may be permitted, while provision is made against abuse of the same. The late decision of the chief justice has, it is further stated, plunged the native community into trepidation, as the higher classes dread violating the laws of the sovereign on the one hand, while the lower classes fear that there will be a poor prospect of insuring a means of subsistence to their offspring on the other. The petitioners place their arguments before his excellency in ten paragraphs, "additional arguments, ten in number," as they call them. In the first paragraph they set out that the buying and selling of children is an essentially Chinese custom, rendered necessary by the struggle for existence which the poor in that populous empire have to make, and that in dealing with the matter it is necessary to discriminate between those transactions of a criminal character and those the reverse; in other words, that while slavery itself ought to be recognized, certain forms of it should be rendered illegal. The second argument is that in this colony, which is so contiguous to China, Chinese customs must prevail, and that their tolerance was guaranteed by Governor Elliot.

The third argument is that if the sale of their children be prohibited to the poor it will lead to an increase in the crime of infanticide; the fourth, that there is a difference between the domestic slavery which forms the subject of the argument and other forms of life-long bondage; the fifth, that it is rendered necessary by the observance of the Confucian doctrine, a man not having descendants of his own being compelled to adopt one, and if it be lawful to adopt boys, then also is it lawful to adopt girls; the sixth, that the Chinese, while purchasing children from good motives, detest kidnaping, and wish to form a society having for its object the suppression of this crime; the seventh points out the support given by the Chinese to the ordinance passed by Governor Kennedy for the punishment of offenses against personal liberty, but it is urged that it was not the governor's intention that those who purchase boys for adoption and girls for domestic slaves should be held criminal, and that if the ordinance goes to this extent it ought to be modified to meet the wishes of the people; the eighth is to the effect that the slaves are not treated as chattels, and that if they are ill-used their friends have a remedy, according to Chinese law, against the masters; the ninth, that if the matter is to be dealt with, the government ought in the first place to deal with the prostitutes, 80 or 90 per cent. of whom are slaves; and the tenth, that the position of domestic slaves is much better than it would be if the children remained with their poverty-stricken parents.

Ab initio these arguments or representations of the petition are untenable, for the simple reason that they are opposed to the fundamental principles of British law. If this were Chinese territory, subject to Chinese law, there would, indeed, be much cogency in the arguments adduced, and the case for the petitioners would be a strong one. The petitioners must have forgotten, for the moment, that the British Government cannot, however well disposed to give them the enjoyment of their customs, violate the principles of the constitution to do so. But, to glance briefly at the ten propositions above summarized: the pith of the first is that if English law be applied the poor will suffer, and that the wisdom of China has enacted permissive laws to prevent such suffering; therefore the former should be amended. Well, the carrying into effect of good has sometimes caused present suffering, and it is questionable if the abolition of slavery in the West Indies was an unmixed good, so far as the immediate interests of those affected was concerned. But it is a grand principle of the Christian religion that we may not do evil that good may come; and, to avoid some present distress, have we the right to sanction what is not only open to abuse, but unquestionably and admittedly often abused? The same reply will refer to several of the succeeding arguments. As to adoption, this, to a certain extent, prevails in all civilized countries, even where slavery is unknown, and it is not necessary to tolerate slavery in order to render adoption possible.

In their remarks on kidnaping, the petitioners seem to forget that wherever there is a market for slaves it will, to a greater or less extent, be supplied by kidnaping. In England, and in most European countries where there is no slavery, kidnaping is almost an unknown crime. In China, on the other hand, where a form of slavery is tolerated, the crime is fearfully rife, and the records of the courts of Hong-Kong show that it also prevails extensively in this colony. While some parents willingly part with their children for a monetary consideration, many are cruelly and forcibly deprived of them against their will. The argument that infanticide would be increased by the suppression of slavery is hardly applicable to the discussion; each crime must be dealt with as may be found necessary, and our laws are quite sufficient to cope with that of child-murder. These remarks, of course, apply only to the colony of Honk-Kong; for what takes place in the province of Kwang-Tung we can accept no responsibility. The authorities there must grapple with their own difficulties. A British colony certainly can never be made a hot-bed of slavery in order to prevent inhumanity in a contiguous province. In their eighth argument we must say we think the petitioners are wrong in their facts. In many, perhaps we may say the majority, of cases the slaves are completely lost sight of by their parents and friends, and are simply the absolute property of their masters. To give an illustration: a wealthy Chinaman in Hong-Kong, after the manner of his countrymen, surrounds himself with concubines and slaves.

Being a kind-hearted man, speaking generally, these are all kindly treated; but reverses in business come, our friend loses his wealth, and finds it necessary, not only to reduce his establishment, but to realize all the money he can. The slaves are of necessity sold. The owner may, being—as we have supposed him—a humane man, take some trouble to find good homes and kind masters for them. But take the reverse of the picture, and suppose the owner to be the opposite of the other character, or even to be only a careless man; what may then be the fate of the human chattels? He will, not unnaturally, seek simply to realize the largest amount with the least trouble, and the girls will, in all probability, be sold to a life of infamy. Where there is right of ownership in human beings there must inevitably be abuses, even when the surrounding circumstances seem most favorable. It may be freely granted that many of the slaves on attaining their majority are comfortably settled in life, and have good reason to be grateful to their masters for the care bestowed upon them and the interest taken in their welfare. But we cannot afford to look on one side of the question only; the abuses are too patent to be ignored in its other phases, which are inseparable from domestic slavery. And even if there were no abuses, slavery in any form is an offense against British law, which Mr. Hennessy will have to tell the memorialists cannot be perpetuated. With the remarks in proposition 9, on the unhappp condition of the inmates of the brothels, it is needless to say that we entirely concur, and hope the government will give this darkest side of the question their immediate and most

serious attention. To conclude, we cannot but think that the Chinese have overestimated the prejudicial effect which the inhibition of slavery would have upon their domestic economy. There could be no objection to their having as many servants and adopting as many boys as they choose; and there ought to be no difficulty in their obtaining them without acquiring a right of ownership over their persons. Of one thing the Chinese of this colony may rest assured, namely, that in face of the previous inaction of the government, it is highly improbable that any sudden or violent social revolution will be inaugurated.

[Inclosure No. 5.]

The Hong-Kong government has recently been occupied in most laudable attempts to put down the practice of buying and selling Chinese girls for immoral purposes, and if its own hands had been quite clean in the matter would doubtless have succeeded to a greater extent than it has. Unfortunately, the peculiar system adopted in the colony can only be maintained by tacitly accepting the system of slavery; so that, while the executive is striving in one direction to effect a reform, it is, on the other, with a strange inconsistence, placing obstacles in the path of an insurmountable character. From time to time, in the mixed court here, we hear curious revelations of the system of domestic slavery, and our reports frequently mention the refusal of the foreign assessor to take any part in the deliberations of the court on these matters. The same cry of the presence of domestic slavery comes to us from those parts of the outer world to which Chinese have emigrated; and in San Francisco, equally with our Australian colonies, it is one of the strongest causes of complaint against the Chinese settlers that they have carried with them to their new abodes this peculiar institution. We have for so many centuries got rid of the last vestiges of domestic slavery, that it is difficult for us to imagine a condition of affairs under which it still flourishes; and accordingly, when we meet with it practiced amongst Chinese residents, we are at a loss to comprehend its foundations; and when we attempt to get rid of its abuses, are far more likely to make matters worse than to cause any sensible amelioration. Curious results have followed more than once from well-meant but ill-judged attempts to force on unwilling subjects a liberty they could not comprehend, but which they knew would be but the means of inflicting further and more hopeless injury. A book published in the United States about two years ago, "The Chinese in America," by the Rev. O. Gibson, a missionary for many years in China, gives some curious tales of the life of the Chinese in San Francisco. To their credit, the missionary bodies of the United States have not confined their missions to the Chinese to those who have not left their native land, but have attempted with varying success to influence the settlers in the Western States. In this they have had many difficulties to encounter, not the least of which proceed from the undisguised hostility displayed towards the settlers by the meaner classes of Irish and negro laborers. Still, on the whole, the influence of the missionaries has been good. They have certainly shown themselves to the Chinese as unselfish and unbiased counselors, to whom they could apply in cases of trouble; and they have, by representing the views and intentions of the Chinese, more than once succeeded in preventing great wrongs being done under the mistaken name of justice. Having said this much, and remembering Mr. Gibson's missionary experience in China, his failure to comprehend the peculiarities of Chinese domestic slavery seems strange. Now it is unfortunately the case that many institutions which were originally founded to meet an acknowledged want, have not only survived that want, but have themselves become abuses. Domestic slavery in China is one of these institutions. Even in China itself it has passed the time when it was a necessity, and gives rise to abuses which the annals of our own mixed court abundantly prove.

Out of China, where it is an exotic, it is little subject for wonder that while all the abuses survive, the really good parts at the foundation of the institution have for the most part died out, or from surrounding circumstances have become inoperative. It is strange to learn that we have to go back to times antecedent to the Roman laws of the Twelve Tables to find a European analogue of the domestic laws of the Chinese; yet so it is, and a paper by Mr. P. G. von Möllendorff on the "Family Law of the Chinese," read before the local branch of the Royal Asiatic Society in the spring of the present year, and just published, gives the fullest account of the connection of Roman and Chinese institutions which has yet appeared. It is equally strange to find that this phenomenon of domestic slavery amongst the Chinese, which leads to the abuses known in every quarter inhabited by Chinese settlers, proceeds from the exaggerated respect to parental authority practiced in China, and which has without doubt contributed to the long existence as a separate nation of the Chinese. The system of slavery which supplies the purlieus of extra-Chinese ports with Chinese women is in fact the legitimate offspring of the *patria potestas* which stands at the foundation of Roman as of Chinese law; but which in the latter case has run riot, while in the former, by lopping off one abuse after another, it has ceased to occupy in modern European legislation aught but the most shadowy existence. The absolute power possessed by the father over his children is no mere doctrine of Chinese law, so modified by practice as to be inoperative. On the contrary, it forms the whole substratum of the Chinese system, whether we take the relation of father towards his children or its reflection in that of sovereign over his subjects. The individual in China lives not for him or herself, but for the individual in whose *patria potestas* he or she may immediately be; and that *potestas* is not confined to the natural case of parent and child, but is transferable at the will of the former, whether the child is sold into marriage, adoption, or slavery. In all three cases the transfer takes the actual shape of a sale, and though custom dictates generally some modifications of legal rights, these rights, as we constantly see from cases in the mixed court, are exercised even where contrary to public morality. Now, the fact that this bond is religious as well as legal has generally escaped the recollection of those who as outsiders have had this curious phase of Chinese custom to contend with. With European notions of slavery, founded on the right of capture, the offer of freedom seems at once the greatest boon that can be presented to a slave; and wonderment is the result when a Chinese, offered an escape from the *patria potestas*, refuses or seeks to evade the proffered gift. It is really the case that the cutting asunder of the bond is more frequently looked upon as an evil than the contrary. To be in China a *filius nullius*, from the very constitution of Chinese society, implies that the individual is an outcast. He or she is cut off from all ties, religious or social; and this isolation, it may be readily understood, carries with it far more effective terrors than slavery itself. Strangely enough, where the attempt has been made to emancipate the individual, this phase of the operation has been forgotten, and the only result in most cases has been to plunge the recipient of the supposed favor into a still lower condition of degradation. While, therefore, it is possible to admire the philanthropy which seeks at Hong-Kong and elsewhere to lessen the evils which are the natural outgrowth of the system of paternal power run adrift, it can be seen that the peculiar ordinances of the colony necessitate the exercise of the very evil it is sought to stay, and that the gift of freedom in the colony may probably be but the first step in a career of vice.

Mr. Evarts to Mr. Yung Wing.

DEPARTMENT OF STATE,
Washington, February 17, 1880.

SIR: In a recent dispatch to this department in relation to the emigration of Chinese subjects from their own land to other countries, one of the United States consuls in China transmitted, for the information of the department, what purports to be a transcript of section cclv of the Penal Code of China, as translated by George Thomas Staunton, F. R. S., an English baronet, whose translation is reputed to be the only one known.

The law referred to is in relation to the various punishments to be inflicted upon the relatives of a Chinaman who may renounce his country and allegiance, and it may therefore be of interest to this government, in connection with the large Chinese immigration on the Pacific coast, to be conversant with the nature of this, among other Chinese statutes touching the general subject.

I have the honor, therefore, to inclose herewith a copy of the translated law as received from the consul, and to inquire whether the same correctly represents the law, and whether it is understood to be now in force in all or any part of the dominions of His Imperial Majesty.

Accept, sir, the renewed assurance of my most distinguished consideration.

WM. M. EVARTS.

[Inclosure.]

Section cclv of the Penal Code of China, concerning the renunciation of allegiance, translated by Sir George Thomas Staunton, bart., F. R. S.

Mr. Yung Wing to Mr. Evarts.

CHINESE LEGATION,
Washington, March 2, 1880. (Received March 2.)

SIR: Your communication of the 17th ultimo, containing an inclosure of a translation of section cclv of the Penal Code of China, as translated by Sir George Thomas Staunton, and inquiring "whether the same correctly represents the law, and whether it is now understood to be in force in all or any part of the dominions of His Imperial Majesty," was duly received, and I have the honor to say in reply that section cclv of the Chinese Penal Code, referred to, has no reference whatever to Chinese emigration as contemplated in and sanctioned by the Burlingame treaty. Under the general head of "Renunciation of allegiance," the specific acts so carefully defined, with their corresponding punishments, point to the presumptive existence of a lesser or greater degree of treasonable intent against the government, and it contemplates conspiracies and overt acts of rebellion against the government as being the logical sequence of "renunciation of allegiance," which antecedes them both in time and existence; hence their classification under that head or section. Emigration, as sanctioned by foreign treaties, is taken out of the category of treasonable acts, and is therefore beyond the scope of the section.

In Article V of the Burlingame treaty we find this language, which is conclusive on this point: "The United States of America and the Emperor of China cordially recognize the inherent and inalienable right of man to change his home and allegiance."

Accept, sir, the assurance of my most distinguished consideration.

YUNG WING.

File

W Wood

No. 60] 2 December 1879 United States Consulate General at Shanghai,

Mr. Bailey Consul General. to the State Department,

Subject:— Mer Consul Scruggs' despatch No 16. 10th Oct 1879.

Asst Sec 29/12

ABSTRACT OF CONTENTS.

Approving Mer Consul Scruggs' request for a U.S. Jail at Chinkiang provided there is a fund available for that purpose.

No. 60

United States Consulate General,

Shanghai, 2 December 1879

Hon. Charles Payson

Third Assistant Secretary of State,

Washington, D.C.

Sir,

Referring to Vice Consul Scruggs despatch No 16 of the 10th of October relating to a bail for United States prisoners at Chinkiang I now have the honor to approve the request of Vice Scruggs, provided there is a fund from which such a sum as he asks can be taken. This approval should have gone forward with the despatch but through an inadvertence did not.

I have

I have the honor to be

Sir,

Your obedient Servant

David St. Hill

Asst. General.

Ack

Wood

No. 61.] December 2d 1879 United States Consulate General at Shanghai,

Mr. Bailey Consul General. to the State Department,

Subject:— Interpreter to the Consulate at Canton.

Acad Jan 29/80

DEPARTMENT OF STATE
JAN 7 1880
RECEIVED

ABSTRACT OF CONTENTS.

Transmits Enclosures relating to the suspension of the Interpreter at the Canton Consulate, and comments thereon.

Enclosures.

No 1. Copy of Mr Cheshires despatch No 136 dated 24th Novbr 79 to Mr Bailey.

No 2. Copy of Mr Baileys despatch dated 2d December 1879 to Mr Cheshire.

No. 61.

United States Consulate General,

Shanghai, December 2d 1879.

Hon. Charles Payson

Third Assistant Secretary of State,

Washington, D.C.

Sir,

I have the honor to enclose copies of a dispatch from Mr Cheshire the Vice Consul in charge at Canton, with my reply thereto, concerning the suspension of the Interpreter at that Consulate.

It will be seen by my dispatch to Mr Cheshire that I have concurred in his action in so far as to approve of the Suspension, pending the decision of the Department.

As Mr Consul Lincoln will doubtless be in Washington about the time of the receipt of this despatch his statements, together with Mr Cheshire's N°92 and the enclosures therein, will enable the Department to act in full knowledge of

all

all the facts.

I have the honor to be

Sir

Your obedient servant

Consul-General

No 136 United States Consulate

Canton November 24. 1879

David H. Bailey Esquire

U. S. Consul General

Shanghai

Sir:

I have the honor to inform, that I have this day temporarily suspended Yü Chen Chiang # Interpreter at this office, for having used the Chinese official seal of this Consulate without my knowledge or consent on the 21st of October, in sealing an # agreement made out in the name of Mr Consul Lincoln and the Chinese Provincial Authorities, which I knew nothing about and which there is no word of in the Archives of this Consulate.

I might mention, that from information I have received from the Chinese Officials and # which Mr Yü Chen Chiang has confirmed, Mr. Lincoln signed two papers in blank on the 15th October

October unofficially, and which were filled up on the 21 idem by Mr. Yü's private writer at an # office in this city, called the Shan Hou Chü, in Mr. Lincoln's official name, and at the same place sealed by the Interpreter with the official seal of this office.

I should not have fulfilled my duty as a Consular Officer to have allowed the Interpreter to remain in this Office after having committed an act, which has involved this Consulate in a good deal of trouble.

I beg to hand you enclosed a cover containing a despatch No 92 addressed to the # Department on the subject, and I shall feel # obliged if you will forward same at your early convenience and also be good enough to approve and endorse my action in suspending the Interpreter temporarily.

I am Sir

Your

Your obedient servant

signed F. D. Cheshire

Vice Consul in Charge

Shanghai

China

Enclosure No 1.

with

Despatch No 61

Copy of Mr Thurburn's despatch No 136

to Mr Bailey dated London 24th 1879

Copy.

No. United States Consulate General

Shanghai December 2d 1879

F. D. Cheshire Esquire

U. S. Vice Consul in Charge

Canton

Sir,

I have to acknowledge the receipt of your dispatch No. 136 dated 24th of November, informing me of your having suspended Yü-Chen-Chiang, the Interpreter of your Consulate, with your reasons therefor.

Your action meets with my concurrence so far as that I will at once report the case with your dispatch to the Department of State and the Interpreter will refrain from exercising any of the functions of his office, pending the decision of the Department.

It is expected, that you will avoid giving publicity to this case, until the pleasure of the Department is ascertained. I am Sir

Your obedient servant

(sd.) David H. Bailey

Consul General

Wood

No. 62] Decb. 2d 1879 United States Consulate General at Shanghai,

Mr. Bailey Consul General. to the State Department,

Subject:— Death of Christopher Schmidt.

Ans Jan 29 1880

ABSTRACT OF CONTENTS.

Reports the death of the above.

Entered

No. 62.

United States Consulate General,

Shanghai, December 2d 1879

Hon. Charles Payson

Third Assistant Secretary of State,

Washington, D.C.

Sir,

I regret to have to inform the Department of the death, on the 22d of November, at Shanghai, of Christopher Selmidt, a citizen of the United States, aged 49 years.

The deceased was born in New Orleans and has been employed as a Pilot on this coast for about thirteen years.

An account of his affairs will be given to the Department as soon as ascertained.

I have the honor to be

Sir

Your obedient Servant

Consul General

Ack + thank

to Wood

No. 63.] December 2d 1879 United States Consulate General at Shanghai,

Mr. Bailey Consul General. to the State Department,

Subject:— International Court for China.

Ans Jan 24 '80

DEPARTMENT OF STATE JAN 7 1880 RECEIVED

ABSTRACT OF CONTENTS.

Transmits enclosures from Mr Henderson in connection with the above.

Enclosure No 1.

Copy of Mr Henderson's letter to Mr Bailey dated 8/11 79

Enclosure No. 2

2 printed Papers on an International Court by Mr J.J. Henderson.

No. 63.

United States Consulate General,

Shanghai, December 2d 1879.

Hon. Charles Payson

Third Assistant Secretary of State,

Washington, D.C.

Sir,

I have the honor to enclose, in accordance with the request of Mr. J. J. Henderson two copies of a paper, prepared by himself on the subject of an International Court for China, together with a copy of his letter enclosing the same to me.

I shall have occasion to comment upon this interesting subject at an early day.

I have the honor to be

Sir

Your obedient servant

David H. Bailey

Consul General

Shanghai, November 8th 1879.

D. H. Bailey Esquire
United States Consul General
Shanghai, China.

Dear Sir:

I beg to hand you herewith three copies of a paper which I recently prepared on the subject of jurisdiction in mixed civil cases in China, and respectfully request that you will forward two of them to the Department of State at Washington, should you think them worthy of the Department's attention.

It may be noticeable that I omitted from my observations on the Status of H. B. M. Supreme Court, and joint and separate trials in cases between British and Chinese subjects, all reference to the Chefoo Convention. I did so, because, first, that convention has not been ratified by Her Majesty's Government; second, I did not think the words therein used with reference to "the" Supreme Court need, necessarily, under attending circumstances, be regarded as authority for the establishment of such a Court; third, the provisions of that Convention refer in express terms to Article XVI of the British Treaty of Tientsin on the subject of Criminal jurisdiction, and make no reference to civil cases. see sec. IX pars. 2 & 3, Chefoo Convention.

I may explain that my information regarding the action of Chief Judge French of H. B. M's Court in the

case of the bark "Vesuvius", and of yourself in the one re
to in the next succeeding paragraph, was obtained th
my professional connection with those cases.

I have the honor to be
Sir, very respectfully
Your Obedient Servant
(signed). I. I. Henderson.

Shanghai China
[illegible]
Enclosure
with
Dispatch No
[illegible]

Hon. Thaddeus
Lyon
Hon. Washington
[illegible]
Nov 8 1859

AN

INTERNATIONAL COURT FOR CHINA,

BY

JAMES JOSEPH HENDERSON, LL.B.,

COUNSELLOR AT LAW.

SHANGHAI:
AMERICAN PRESBYTERIAN MISSION PRESS.

MDCCCLXXIX.

NOTE.

The observations contained in the following paper are based upon experiences of the past six years, five of which I have spent as United States Consul at Amoy, and one, the last, as a practitioner in the courts of Shanghai. They are necessarily crude in form: one whose profession calls for the study of fourteen different systems of laws, written in as many languages and administered by as many courts, can have but little time for dressing his thoughts in polished English, or rounding off the rough and blunt points. While I have tried to refrain from personalities and partizanism, I have endeavoured to avoid that vagueness which is the habit of people who either have no well-defined opinions, or are so timid about expressing them that nobody ever suspects them of having any. My object is to call the attention of Mandarins, Ministers and Consuls, and others concerned in and for China, to what I believe to be a great need in this country—an International Court for the trial of mixed causes.

J. J. Henderson.

Shanghai, China, October 29th, 1879.

AN INTERNATIONAL COURT FOR CHINA.

When the States of Christendom came to settle the provisions for establishing and carrying on commercial relations with China they thought it necessary to demand a concession of certain of the powers of sovereignty which are usually reserved to themselves by independant nations. The late Caleb Cushing, lawyer, statesman and diplomat, negotiator of the first treaty between China and the United States, shortly after his visit to this country in 1844, described the situation as follows:

"The states of Christendom are bound together by treaties which confer mutual rights and prescribe reciprocal obligations. They acknowledge the authority of certain maxims and usages received among them by common consent, and called the law of nations, but which, not being fully acknowledged and observed by the Mohammedan or pagan states, which occupy the greater part of the globe, is, *in fact*, only the international law of Christendom. Above all, the states of Christendom have a common origin, a common religion, a common intellectuality; associated by which common ties, each permits to the subjects of the other, in time of peace, ample means of access to its dominions for the purpose of trade, full right to reside therein, to transmit letters by its mails, to travel in its interior at pleasure, using the highways, canals, stage-coaches, steamboats, and railroads of the country as freely as the native inhabitants. And they hold a regular and systematic intercourse as governments, by means of diplomatic agents of each, residing in the courts of the others, respectively. All these facts impart to the states of Christendom many of the qualities of one confederated republic.

"How different is the condition of things out of the limits of Christendom! From the greater part of Asia and Africa, individual Christians are utterly excluded, either by the sanguinary barbarism of the inhabitants, or by their phrensied bigotry, or by the narrow-minded policy of their governments. To their courts, the ministers of Christian governments have no means of access except by force, and at the head of fleets and armies. As between them and us, there is no community of ideas, no common law of nations, no interchange of good offices; and it is only during the present generation, that treaties, most of them imposed by force of arms or by terror, have begun to bring down the great Mohammedan and pagan governments into a state of inchoate peaceful association with Christendom."

According to the Chinese, China was "the Middle Kingdom" and her people were *men*, while all outside of her dominions were barbarians, unworthy of the recognition or association of men. Her penal system was said to be barbarous and inhuman in the extreme, exhibiting the very refinements of cruelty itself. The finger nails

of men were sometimes pulled out by the roots to extort confessions of guilt, and when convicted, they were often either starved or put to death by the "slicing process." Indeed all the imaginary horrors of the Buddhist hell were introduced into the experiences of life on earth. Her civil code was little or no better. It was charged that perjury, bribery and "the laws delays" corrupted and obstructed every avenue to civil justice. We were unwilling that our people accused of crime should be tried by native courts or according to Chinese laws, or that civil cases to which we were parties should be determined by them. Hence, we not only insisted upon having the rights of legation, of trade and travel in the country, but we demanded, and China conceded to us, the exclusive power to try and punish, according to our own laws, people of our respective nations who were charged with the commission of offences against law within the boundaries of her empire, a joint voice with the native courts in the determination of controversies between natives and foreigners which could not be amicably settled otherwise, and the right to regulate among ourselves, without interference on the part of China, disputes between foreigners of different nationalities. The following is the English text of some of the treaty provisions on this subject:

AMERICAN TREATY OF 1858.

"Art. XI.—All citizens of the United States of America in China, peaceably attending to their affairs, being placed on a common footing of amity and good-will with subjects of China, shall receive and enjoy for themselves and everything appertaining to them the protection of the local authorities of Government, who shall defend them from all insult or injury of any sort. If their dwellings or property be threatened or attacked by mobs, incendiaries, or other violent or lawless persons, the local officers, on requisition of the Consul, shall immediately despatch a military force to disperse the rioters, apprehend the guilty individuals, and punish them with the utmost rigour of the law. Subjects of China guilty of any criminal act towards citizens of the United States shall be punished by the Chinese authorities according to the laws of China, and citizens of the United States, either on shore or in any merchant vessel, who may insult, trouble, or wound the persons or injure the property of Chinese, or commit any other improper act in China, shall be punished only by the Consul or other public functionary thereto authorized, according to the laws of the United States. Arrest in order to trial may be made by either the Chinese or the United States authorities.

Art. XXIV.—Where there are debts due by subjects of China to citizens of the United States, the latter may seek redress in law; and on suitable representation being made to the local authorities, through the Consul, they will cause due examination in the premises, and take proper steps to compel satisfaction. And if citizens of the United States be indebted to subjects of China, the latter may seek

redress by representation through the Consul, or by suit in the Consular Court; but neither government will hold itself responsible for such debts.

Art. XXVII.—All questions in regard to rights, whether of property or person, arising between citizens of the United States in China, shall be subject to the jurisdiction and regulated by the authorities of their own government; and all controversies occurring in China between citizens of the United States and the subjects of any other government shall be regulated by the treaties existing between the United States and such governments respectively, without interference on the part of China.

Art. XXVIII.—If citizens of the United States have especial occasion to address any communication to the Chinese local officers of government, they shall submit the same to their Consul or other officer, to determine if the language be proper and respectful, and the matter just and right, in which event he shall transmit the same to the appropriate authorities for their consideration and action in the premises. If subjects of China have occasion to address the Consul of the United States they may address him directly, at the same time they inform their own officers representing the case for his consideration and action in the premises; and if controversies arise between citizens of the United States and subjects of China, which cannot be amicably settled otherwise, the same shall be examined and decided conformably to justice and equity by the public officers of the two nations, acting in conjunction. The extortion of illegal fees is expressly prohibited. Any peaceable persons are allowed to enter the Court in order to interpret, lest injustice be done."

BRITISH TREATY OF 1858.

"Art. XV.—All questions in regard to rights, whether of property or person, arising between British subjects, shall be subject to the jurisdiction of the British authorities.

Art. XVI.—Chinese subjects who may be guilty of any criminal act towards British subjects shall be arrested and punished by Chinese authorities according to the laws of China.

British subjects who may commit any crime in China, shall be tried and punished by the Consul, or other public functionary authorised thereto, according to the laws of Great Britain.

Justice shall be equitably and impartially administered on both sides.

Art. XVII.—A British subject, having reason to complain of a Chinese, must proceed to the Consulate, and state his grievance. The Consul will inquire into the merits of the case, and do his utmost to arrange it amicably. In like manner, if a Chinese have reason to complain of a British subject, the Consul shall no less listen to his complaint, and endeavour to settle it in a friendly manner. If disputes take place of such a nature that the Consul cannot arrange them amicably, then he shall request the assistance of the Chinese authorities, that they may together examine into the merits of the case, and decide it equitably."

"Art. XXXV.—When a French subject shall have complaint to make or claim to bring against a Chinese, he shall first state his case to the Consul, who, after having examined the affair, will endeavour to arrange it amicably. In the same manner when a Chinese has to complain of a French subject, the Consul shall attentively hear his claim and endeavour to bring about an amicable arrangement. But if in either case this be impossible, the Consul shall require the assistance of a competent Chinese official, and these two, after having conjointly examined the affair, shall decide it equitably.

Art. XXXVII.—If Chinese become in future indebted to French captains or merchants and involve them in loss by fraud or in any other matter, the latter shall no longer avail themselves of the combination which existed under the former state of things; they may address themselves only through the medium of their Consul to the local authority, who shall neglect nothing, after having examined the affair, to compel the defaulters to satisfy their engagements according to the laws of the country. But, if the debtor cannot be found, if he be dead, or bankrupt, and is not able to pay, the French merchants cannot claim as against Chinese authority.

In case of fraud or non-payment on the part of French merchants, the Consul shall, in the same manner, afford every assistance to the claimants, but neither he nor his government shall in any manner be held responsible.

Art. XXXVIII.—If unfortunately any fight or quarrel occurs between French and Chinese subjects, as also if during the course of such quarrel one or more persons be killed or wounded, by fire-arms or otherwise, the Chinese shall be arrested by the Chinese authority, who will be responsible, if the charge be proved, for their punishment according to the laws of the country. With regard to the French they shall be arrested at the instance of the Consul, who shall take the necessary measures that they may be dealt with in the ordinary course of French law in accordance with the forms and practice which shall be afterwards decided by the French Government.

The same course shall be observed in all similar circumstances not enumerated in the present convention, the principle being that for the repression of crimes and offences committed by them in China, French subjects shall be dealt with according to the laws of France.

Art. XXXIX.—Disputes or differences arising between French subjects in China shall, equally, be settled by the French authorities. It is also stipulated that the Chinese authorities shall not in any manner interfere in any dispute between French subjects and other foreigners. In the same way they shall not exercise any authority over French vessels; these are responsible only to the French authorities and the captain.

"Art. XXXV.—Any subject of any of the contracting German States having reason to complain of a Chinese, must first proceed to the Consular Officer and state his grievance. The Consular Officer having inquired into the merits of the case, will endeavour to arrange it amicably. In like manner, if a Chinese have reason to complain of a subject of any of the contracting German States, the Consular Officer shall listen to his complaint and endeavour to bring about a friendly settlement. If the dispute, however, is of such a nature that the Consul cannot settle the same amicably, he shall then request the assistance of the Chinese authorities, that they may conjointly examine into the merits of the case, and decide it equitably.

Art. XXXVII.—Whenever a subject of His Majesty of China fails to discharge the debts due to a subject of one of the contracting German States or fraudulently absconds, the Chinese authorities, upon application, by the creditor, will do their utmost to effect his arrest and to enforce payment of the debt. In like manner the authorities of the contracting German States should do their utmost to enforce the payment of debts of their subjects towards Chinese subjects, and to bring to justice any who fraudulently abscond. But in no case shall either the Chinese Government or the governments of the contracting German States be held responsible for the debts incurred by their respective subjects.

Art. XXXVIII.—Any subject of His Majesty the Emperor of China, having committed a crime against a subject of one of the contracting German States, shall be apprehended by the Chinese authorities and punished according to the laws of China. In like manner, if a subject of one of the contracting German States is guilty of a crime against a subject of His Majesty of China, the Consular Officer shall arrest him and punish him according to the laws of the state to which he belongs.

Art. XXXIX.—All questions arising between subjects of the contracting German States in reference to the right of property or person shall be submitted to the jurisdiction of the authorities of their respective states. In like manner will the Chinese authorities abstain from interfering in differences that may arise between subjects of one of the contracting Geman States and foreigners.

The treaties between China and other Christian states are similar to these in their provisions on the subject of jurisdiction.

It may be interesting in this connection to see the provisions of the treaty between China and Japan on the same subject. The reasons for the mutual concession by each of these governments of judicial powers to the Consuls of the other in certain cases are not so apparent. It will be observed that no provision is made for the determination of controversies between Japanese and other foreigners in China, or between Chinese and other foreigners in Japan. Such cases, I presume, would be regulated by the treaties existing between these governments respectively, and Christian states.

"Art. III.—The system of government and the penal enactments of the two governments being different from each other, each shall be allowed to act in entire independence. There shall be no interference offered, nor shall requests for innovations be obtruded. Each shall aid the other in enforcement of the laws, nor shall either allow its subjects to entice the people of the other country to commit acts in violation of the laws.

Art. VIII.—At the ports appointed in the territory of either government, it will be competent for the other to station Consuls for the control of its own merchant community. All suits in which they (the Consul's nationals) are the only parties, the matter in dispute being money or property, it will fall to the Consul to adjudicate according to the law of his own state. In mixed suits, the plaint having been laid before the Consul, he will endeavour, in the first instance, to prevent litigation by friendly counsel. If this be not possible, he will write officially to the local authority, and in concert with him will fairly try the case and decide it. Where acts of theft or robbery are committed, and where debtors abscond, the local authorities can do no more than make search for and apprehend the guilty parties. They shall not be held liable to make compensation.

Art. IX.—At any of the ports appointed, at which no Consul shall have been stationed, the control and care of the traders resorting thither shall devolve on the local authorities. In case of the commission of any act of crime the guilty party shall be apprehended, and the particulars of his offence communicated to the Consul at the nearest port, by whom he shall be tried and punished according to law.

Art. X.—At the ports named in either country, the officials and people of the other shall be at liberty to engage natives for service, or as artisans, or to attend to commercial business. The persons so engaged shall be kept in order by the person so engaging them, who shall not allow them to perpetrate acts of fraud under any pretext. Still less shall he give rise to cause of complaint by giving ear to statements advanced from illicit motives. In the case of any offence being committed by any person employed in the manner above mentioned, the local authority shall be at liberty to apprehend and punish the delinquent. The employer shall not favour or protect him.

Art. XI.—Whereas, it is the duty of the subjects of either power residing at the ports declared open in either country to live on friendly terms with the native inhabitants, it is provided that they shall not be allowed to wear arms. Infraction of this rule will be punishable by a fine, accompanied by the confiscation of the arms.* Residents as aforesaid shall attend peaceably to their own avocations, and whether residing permanently or for the time being at a port, they shall submit to the authority of their Consul. They shall not be allowed to adopt the costume of the country in which they may

* Ratification of these clauses, relating to the wearing of arms, refused by the Mikado of Japan.

reside, nor to obtain local registration and compete at the literary examinations, lest disorder and confusion be produced.

Art. XIII.—If any subject of either power connect himself at any of the open ports with lawless offenders for purposes of robbery or other wrong-doing, or if any work his way into the interior and commit acts of incendiarism, murder, or robbery, active measures for his apprehension shall be taken by the proper authority, and notice shall at the same time be given without delay to the Consul of the offender's nationality. Any offender who shall venture, with weapons of a murderous nature, to resist capture may be slain in the act without farther consequences; but the circumstances which have led to his life being thus taken shall be investigated at an inquest which will be held by the Consul and the local authority together. In the event of the occurrence taking place in the interior, so far from the port that the Consul cannot arrive in time for the inquest, the local authority shall communicate a report of the facts of the case to the Consul.

When arrested and brought up for trial, the offender, if at a port, shall be tried by the local authority and the Consul together. In the interior he shall be tried and dealt with by the local authority who will officially communicate the facts of the case to the Consul.

If subjects of either power shall assemble to the number of ten or more to foment disorder and commit excesses in the dominions of the other, or shall induce subjects of the other therein to conspire with them for the doing of injury to the other power, the authorities of the latter shall be free at once to arrest them. If at a port, their Consul shall be informed, in order that he may take part in their trial. If in the interior, the local authority shall duly try them, and shall officially communicate particulars to the Consul. In either case capital punishment shall be inflicted at the scene of the commission of the offence.

Other clauses provided for the appointment of diplomatic and consular officers by the various treaty states and the exercise by them of the judicial powers ceded to these states respectively; rules were made by their legislative or executive departments for executing these powers; the ministers and consuls, missionaries and merchants of Christendom came, and for nearly half a century they have been struggling to bring China into the great family of nations, to christianize her people, and to open up her broad domain to foreign commerce. Whatever success has been achieved in other respects, it is safe to say that as a system for the adjustment of civil cases arising under these treaties, the arrangement made has proved a failure. This can but be apparent to any one who has long been accustomed to observe its practical workings as frequently interpreted and usually administered by the several officers exercising the ceded jurisdiction under the various conflicting and inappropriate laws, regulations, and orders governing the performance of their functions.

That the interests of all parties to these compacts demand some new and different system for the administration of civil

justice in cases between foreigners and natives, and between foreigners of different nationalities, can not be doubted. It may not be necessary to make any material change in the way of fundamental provision—no greater or different powers would seem to be needed by any of the governments interested; but regular judicial tribunals, with powers and duties commensurate with the necessities of the situation certainly laid down and defined, an established rule of decision for all cases of conflict of laws, and a code of procedure that will enable the tribunals to effectuate their judgments, is a necessity to our present commercial condition in China.

The communities of the open ports, composed mostly of natives, embrace people of nearly every nationality under the sun. They have a common interest in all that pertains to an immediate social and commercial intercourse. Together they carry on a foreign trade already of the annual value of near $200,000,000, and rapidly increasing. The amount of foreign capital employed in China is alone estimated at $250,000,000. The port of Shanghai affords a sufficient illustration of our general condition. It contains a foreign population of at least 2,000, all of which is engaged in direct trade with the natives. In commercial importance it ranks fifth among the great emporiums of the world. Fourteen different courts, administering as many systems or sub-systems of laws, adjudicate their differences according to the law of the defendants' nation.

The most important class of civil cases that come up for adjustment under these treaties are those between Chinese and foreigners; next are those between foreigners of different nationalities; and lastly those wherein foreigners of the same nationality are parties. But it is scarcely possible for a cause of any commercial importance to arise that does not contain some mixture of parties—some element of internationality that renders imperfect the exclusive jurisdiction of any one of the treaty courts.

In one-half the cases between natives and foreigners, it may be assumed, accident, fraud, or breach of contract has placed the former in the advantageous but otherwise unmeritorious position of defendant—in possession of the subject of controversy. With a singular forgetfulness of the essential consideration that moved the states of Christendom to demand the concession of a joint voice in the determination of disputes between natives and their own people respectively—the consideration that the native courts and laws were so objectionable to us that we were unwilling that suits to which our people were parties should be decided by them—many foreign judicial officers in China are disposed to construe away all our important concessions on this subject. Disregarding the obvious meaning of

the language of the treaties and following a rule which is only applicable among Christian states which practice substantially the same principles in the administration of civil justice, and which from necessity, exercise absolute and exclusive jurisdiction in all suits against persons within their respective territories, they hold, on the one hand, that our ministers and consuls in China have only a right to be present at the trial of suits between foreigners and natives wherein the latter are defendants and watch proceedings on behalf of their countrymen, leaving it to the native officer to decide the cases; and on the other, that each of the foreign courts is a separate and independent tribunal, with the exclusive power to dispose of all suits between people of the state to which it belongs and others where the former are defendants, according to such laws as that state may prescribe.

No doubt this doctrine is in a great measure due to the disposition which is manifested by some foreign officers to maintain for their people the attitude of complete and perfect exterritoriality in China—a status which was never contemplated for them by the treaty-makers, beyond the limits of criminal procedure and punishments.* National vanity or the contempt which a christian consul affects for a pagan judge has had its share of influence in excluding the latter from the bench where foreigners were defendants.

It would be difficult to say upon whom the greatest inconvenience and injustice of this absurd construction falls. Those who insist upon it should bear in mind that such a construction must operate in both directions or not at all, and that while, on the one side, as I have already intimated, the very cases wherein it was deemed most important that we should have joint jurisdiction are by it thrown back to the original, the pagan, forum, they, on the other side, are advocating an unjust and unjustifiable usurpation of the powers of sovereignty belonging to the Chinese Government which is well calculated to teach the astute diplomats of China that treaties are chiefly useful as opening wedges for encroachments upon her sovereign prerogatives.

If these provisions of the treaties mean anything they certainly give to the ministers and consuls of the treaty powers in China a joint jurisdiction, with all that jurisdiction implies, along with the Chinese courts, in all controversies between natives and foreigners which can not be amicably settled otherwise. This is as plain as that these same officers, by these same treaties, are given *exclusive* criminal jurisdiction over their countrymen in cases occurring in China, and far plainer than that any of them have exclusive authority to determine contested cases between Chinese subjects and foreigners.

*Opp. Atty. Gen. U.S. 501.

I am not aware that the voluntary appearance of a party as plaintiff before a court of special and limited jurisdiction has ever been held to give jurisdiction to such a court.

But this construction of the treaties is not by any means followed in strictness, even by those who insist upon it as the true one. Many consuls who most strenuously oppose the right of Chinese officials to sit with them on the trial of cases against their compatriots do not hesitate to exert all their power, through threats, in written correspondence, at personal interviews, and on the bench, to control the decision of suits by their compatriots against Chinese.

The case of Duff and David against the Swatow Opium Guild, recently heard by the Toatai of Shanghai, very well illustrates the the working of the separate system of trials. Duff and David, two British subjects residing at Chinkiang, charged the Swatow Opium Guild, a large company of native opium dealers, with conspiracy to prevent foreigners from selling opium at Chinkiang. They claimed that such a conspiracy constituted a breach of treaty, and alleged 12.000 taels damages to their business through the action of the guild. The suit was understood to have been brought in the "Mixed Court" for Great Britain and China at Shanghai. At the hearing Arthur Davenport Esquire, H.B.M. Consul, occupied the bench with the Toatai, but on being asked by one of the (British) counsel for the defence to explain the constitution of the court, declared that he only appeared as H.B.M. Consul, to watch the proceedings on behalf of the British plaintiffs, and directed the counsel to address themselves to the Taotai. (It was possibly supposed by the Consul that the Taotai would not recognize members of the profession so much despised in China and not hitherto admitted to the bar of a native prefectural court. But if so, he was doomed to disappointment, for the Taotai bore with them (or was bored with them) throughout the trial. The Consul and plaintiffs, repeatedly during the hearing, complained that intimidation was being practised to prevent their witnesses from testifying, and of numerous other irregularities in the proceedings, and finally, at the close of the case for the plaintiffs, upon an intimation from the Taotai that he had failed to discover any evidence in support of the the charge against the defendants, left the court in evident disgust, the Consul carrying with him the exhibits which had been admitted in evidence.

However farcical the proceedings in this case were, with the plaintiffs themselves present in court, the Consul in a place on the judgment seat taking an active part in directing the hearing, and at last quietly walking off with the record when the result proved contrary to his wishes, his position on this occasion would scarcely

comport with the one which is customarily accorded to consuls who are permitted to appear before the courts of Europe or America "to watch proceedings" on behalf of their countrymen.

The attitude of Mr. Davenport regarding the constitution of the court was possibly an unwilling one on his part, and was due, no doubt, to Queen Victoria's order in council (of March 9th, 1865) reducing her Consul at Shanghai to the position of High Sheriff, and "vesting all her jurisdiction civil and criminal, exercisable in China for and within the district of the consulate at Shanghai, exclusively in the Supreme Court"—a tribunal created by the same order. "All the jurisdiction, civil and criminal, exercisable by Her Majesty in China," no more and no less, being the jurisdiction ceded to her by the Chinese Government in the treaty provisions before noticed—the exclusive power to try and punish British subjects guilty of offences against law in China, according to their own laws, and a joint voice with the Chinese authorities in the decision of disputes between Chinese and British subjects which could not be arranged amicably—it follows that he has no judicial function in any case. Indeed, he invariably denies having any judicial power when applied to by foreigners or Chinese who are weak enough to suppose that *treaties* have anything to do with matters in which Englishmen are concerned as defendants.

Inasmuch as the treaty between China and Great Britain makes no provision for "the Supreme Court" or any such officers as a "chief justice" or the others who preside in it, and they act without *exequater* or other recognition from the Chinese Government, this court, of course, would not be permitted by the Chinese officials to exercise Her Majesty's share of the joint jurisdiction in such a case.

It thus happens that ~~the~~ Her Brittanic Majesty, in this charateristic attempt to amend the provisions of a treaty without the concurrence of the other party to it, but with the intention, doubtless, of improving her miserable system of consular courts, has put aside at this port, the chief advantage conferred upon her by the compact with China, to say nothing of any question as to the validity of judgments of "the Supreme Court."

When, on the other hand, it is remembered that this court, acting under orders from Her Majesty, assumes and exercises exclusive original jurisdiction in all suits against British subjects at Shanghai, and *mesne* appellate jurisdiction in all those at the other open ports; that before any suit will be heard by this Court upon the complaint of a Chinaman (or a subject of any other foreign power) the plaintiff must deposit with the court, besides the usual heavy fees of court, ($2\frac{1}{2}$ per cent. on the amount sued for) a sum ranging from $500

downwards and liable to be increased, as security for the "costs" which the British defendant may incur in contesting the suit—which is to be tried according to his own law, in his own court, when no appeal from its decision will be allowed or heard save to Her Majesty's Privy Council in London, at a further cost of little less in any case than one thousand pounds sterling—it may easily be understood how nearly the ordinary Chinese suitor, necessarily ignorant of all foreign law and procedure, is without available redress for wrongs committed at the hands of a British subject. In a country where the courts are practically beyond the reach of a large portion of the population on account of the expensiveness of proceedings in them, and where the government itself is little given to regard the rights of weaker powers where its own interests or policy are involved, these things may not appear even strange. But to those who believe in respecting the rights of others and of dealing fairly and impartially with the rich and poor, the powerful and the weak, alike, they have the semblance of unjust usurpations of power and prerogative, dangerous to the very independence of the Chinese Empire.

There are those who argue in favor of the validity of the Order in Council establishing H.B.M's. Supreme Court for China and Japan, on the ground that, although the government of China, the ultimate source of all judicial power in this empire, has in no way authorized the establishment of such a court within its dominions, or ceded to Her Majesty much of the jurisdiction which "the Supreme Court" habitually exercises, or consented to the manner in which it is exercised, "it is all right," because China submits to it. Looking at the matter on principle, and considering the patient and forbearing nature of the Chinese as a race, one might as well say it is right to kick a Chinaman because he submits to being kicked, as any one knows he generally does when a Christian attempts such a liberty with him, so far at least, as any present demonstration is concerned. It by no means follows, however, that he any the less feels the wrong that is being imposed upon him, or will not attempt in some "way that is dark" to right it. Surely it will not teach him to believe in our boasted superiority in matters of law and justice, encourage him to adopt the ways of Christians because he thinks them more honest, or raise his estimate of the value of treaties.

Some two years since the U.S. Consuls in China were informed by H. E., G. F. Seward, their minister at Pekin, that the Government at Washington had under consideration the question whether its treaty with China really meant what it seemed to say regarding this matter; and they were "instructed" to follow the view expressed by Mr. Att'y. Gen. Cushing until the opinion of the

government should be known. Mr. Cushing expressly rested his view on this point upon the doctrines and practice of the independent sovereign states of Christendom,* which I have already referred to, and, as I think, shown to be inapplicable to our condition in China. Objection being made to Mr. Seward's "instruction," on the ground that it was not the province of the Minister to "instruct" Consuls as to their judicial duties, he declared that his "instruction" was not intended as an "instruction," but simply as the "opinion" of the highest judicial officer of the United States in China.

What has been the result of the government's consideration, or what its present opinion on the question is, I am not informed.

Until some improvement is shown in the judicial system of China, in my opinion, it would be dangerous to foreign interests here to have it understood that Chinese courts have the sole power to determine all suits between natives and foreigners wherein the former happen to be in the position of defendants. Justice has been defeated frequently enough by the failure of the joint courts to agree upon a decision—the natural consequence of a submission to a tribunal composed of two persons; or when the executive function involved has been left entirely in the hands of the native judge. Through bribery of yamen runners, the unsuccessful Chinese defendant often contrives to "beat" the Christian plaintiff on the execution.

The clauses ceding to treaty states the right to adjust controversies between their respective citizens or subjects without interference on the part of China were supposed to confer on them all the powers necessary for the purposes of justice in cases between foreigners of different nationalities, and indeed they have generally been found sufficient. While there are no special treaties between them on this subject, none are needed in order to carry out these stipulations. The states of Christendom have among themselves treaties of amity and commerce, which, as construed by the law and usage of nations, give to each of them the right to act compulsorily upon its own subjects or citizens at the suit of another. The exercise of this right, in obedience to international comity and the necessities of justice, is obligatory in all cases where it is reciprocated.†

But now and then there is a refusal of those very courtesies and acts of mutual assistance which are supposed to distinguish the Christian from the Pagan in his international relations, and without which it would be impossible for any one of the treaty powers to administer justice under a set of complex, imperfect and depen-

† Opp. Att'y. Gen. 8 U. 516. * *Id.* 519.

dent sub-systems of jurisprudence, such as we have in China. The very object of the treaty concessions on the subject of jurisdiction—a desire to improve upon the pagan system—seems to be forgotten.

The recent case of the bark "Vesuvius" against W. W. Parkin *et al* may serve as an example. This was an admiralty suit *in personam* in the U.S. Court for the Consular District of Shanghai, for balance of freight due under charter party. Both parties to the suit were American. The defendants all being absent from the district, and sufficient of their goods not being found therein to satisfy the demand of the libellant, his counsel moved the U.S. Consul General, Judge of the court, to request the Chief Judge of H.B.M's. Court at Shanghai, to endorse a warrant of garnishment of monies belonging to the defendants in the hands of the Chartered Bank of India, Australia and China, a British corporation doing business at Shanghai. The Chief Judge refused the request, on the ground that he had not the power to comply with it. Thereupon, and upon reference to the treaty between China and Great Britain the Consul General addressed a similar request to H.B.M's Consul, setting forth the circumstances of the case and explaining that in actions *in personam* under the admiralty system of the United States, when the defendants could not be found within the district of the court exercising jurisdiction, the attachment of their property was made for the purpose of compelling an appearance, and was necessary to give the court jurisdiction to pronounce a final judgment; that it would seem to follow, in view of our peculiar relations in and with China, that if the endorsement of the British authorities was necessary, as it was believed to be, to make such a writ valid and binding on a British subject, and such endorsement was refused, justice must in such case be defeated, unless some other procedure, not then contemplated, might be discovered. The request was that in furtherance of justice, the writ be approved and endorsed, or that a similar or such other order or process as might be deemed proper and necessary to serve the ends of justice, be issued or caused to be issued; and closed with an offer on the part of the Consul General to perform a like service when called upon. No reply or even acknowledgement to this last request was ever received.

But this precedent proved an awkward one for the British authorities. It was not long before H.B.M's. Court had occasion to make an almost similar request of the U.S. Consul General. The latter, in refusing to comply with the request, said that while he fully recognized the great importance, in the interest of justice, of the various courts of Shanghai, international in character, assisting each other in the enforcement of their several *mesne* and final

processes, and while as Presiding Judge of the U.S. Court he would go to the farthest limit of the true rule of comity for the purpose named, yet, unless that comity was reciprocal it could not remain effectual.

The Chief Judge's inability to grant the courteous request of the U.S. Court on this occasion cannot be attributed to the omission from the treaty between China and Great Britain of a clause giving to Her Majesty a right to take part in the settlement of disputes between British subjects and foreigners of other nationalities without interference on the part of China. Such jurisdiction is habitually exercised by the court over which he presides. It must be admitted, however, that unless the power or duty of hearing and deciding controversies can be claimed by Her Majesty as a "privilege, immunity, or advantage" under the "most favored nation clause," this jurisdiction does not exist in her courts in China, but remains with the Chinese Government.

The laws regulating the exercise of the ceded jurisdiction are as various as the treaty powers are numerous.

In the U.S. Courts it is regulated by the Revised Statutes. The provision is as follows :

"Sec. 4086. Jurisdiction in both criminal and civil matters shall, in all cases, be exercised and enforced in conformity with the laws of the United States, which are hereby, so far as is necessary to execute such treaties, respectively, and so far as they are suitable to carry the same into effect, extended, over all citizens of the United States in these countries, and over all others to the extent that the terms of the treaties respectively justify or require. But in all cases where such laws are not adapted to the object, or are deficient in the provisions necessary to furnish suitable remedies, the common law and the law of equity and admiralty shall be extended in like manner over such citizens and others in these countries; and if neither the common law nor the law of equity or admiralty, nor the statutes of the United States, furnish appropriate and sufficient remedies, the ministers in those countries respectively, shall, by decrees and regulations which shall have the force of law, supply such defects and deficiencies."

No regulations worthy of the name have ever been promulgated by the American Ministers for China under the authority of this provision, although they are much needed. One reason for this important omission, I suppose, is that the United States have seldom been represented at Pekin by a man capable of performing such a duty.

The Order in Council, before cited, regulates this jurisdiction in the British courts.

The general provisions are that "all Her Majesty's jurisdiction exerciseable in China or in Japan for the judicial hearing and the determination of matters in difference between British subjects, or between foreigners and British subjects,—or for

administration or control of the property or persons of British subjects,—or for the repression or punishment of crimes or offences committed by British subjects,—or for the maintenance of order among British subjects,—shall be exercised under and according to the provisions of this Order, *and not otherwise.*

Subject to the other provisions of this Order, the civil and criminal jurisdiction aforesaid shall, as far as circumstances admit, be exercised upon the principles of and in conformity with the Common Law, the Rules of Equity, the Statute Law, and other Law for the time being in force in and for England, and with the powers vested in and according to the course of procedure and practice observed by and before Courts of Justice and Justices of the Peace in England, according to their respective jurisdictions and authorities."

In the French courts it is to be exercised according to the Code Napoleon; in the German courts according to the Prussian code of 1794, and the laws of those parts of Prussia where the code prevails, the civil procedure according with the code of procedure issued by the German Empire, and the laws of Prussia giving it effect; and so on, to the end of the list of treaty powers, with appeals to Pekin or San Francisco, London, Paris or Leipzic, etc., as the case may be.

These laws in many and important respects conflict with the laws of China and with each other, and yet it is left to the several officers exercising judicial power in China to determine in cases as they arise what law shall be the rule of decision, the only restriction placed on their discretion being the treaty stipulation, seldom observed, that the determinations of the joint courts shall fall within the plastic rules of "equity." Nearly all cases against foreigners being heard by the Consul-Judge alone, upon the voluntary petition of a Chinese subject, or a subject or citizen of some other foreign power, the laws of the state to which the court belongs being better known, are naturally preferred by it; and it is usual to disregard the rules of international comity where the application of a foreign law would operate prejudicially to the interests of the court's own people and country. The grievance on this score is great. Such a condition of affairs, to be consistant with itself and just to the people affected by it, necessitates at once an absurdity and an impossibility—a knowledge by each member of our mixed communities of all the laws enforced among us. Who but an Englishman can be presumed to know "the laws of England"—a system which arbitrarily separates all nature into "things legal" and "things equitable?" and who of any country can be presumed to know "the laws of the United States" concerning that great body of matters which are regulated by the thirty-eight sovereign states composing the union, or "the common law" of the United States? If any man should be fortunate enough to possess the knowledge necessary to meet the requirements of the latter case, he would find

it of but little use in one of the courts of the United States in China. Both the law and procedure under the Act of Congress quoted are as far from accordance with "the laws of the United States," including the great principles of the Constitution, which are the very foundation of those laws, as are those of the most absolute monarchy in Europe, and in the majority of cases, the exercise of the jurisdiction conferred is but little nearer being in conformity with those laws.

These conflicts often arise out of efforts on the part of foreign judicial officers to give effect to the bankruptcy laws of their respective states. The Chinese have no bankruptcy system of their own. So far from it that with them the son is responsible for the debts of the father. But the bankruptcy laws of Great Britain, the United States, and some other foreign states, have been *enforced* at the open ports with a shameless disregard of the rights of Chinese subjects and others. The facility with which insolvent British subjects are discharged from their debts and the *un*scrupulous care with which the securities of other people have been taken and distributed amongst British creditors, have long been subjects of scandal among natives and foreigners alike. To a Chinaman who has been taught that bankruptcy means hopeless ruin, and inability to pay one's debts endless imprisonment, these things are difficult to understand, and are the cause of much disaffection.

Statutes of limitation are unknown in China, and yet such laws having relation to the remedy, and the remedy being pursued according to the *lex fori* among the independent sovereign states of Christendom, Chinese suitors are not unfrequently surprised, when too late, to learn that a claim, otherwise lawful, will not be enforced by a foreign judicial officer to whom he has applied for redress, because the action is barred by the statutory limitation which prevails in some foreign state of Europe or America.

In the British and American courts many important cases are wholly unprovided for. British Consuls in China have no jurisdiction in admiralty. In cases of collision and others occurring at the open ports, great inconvenience sometimes arises from the want of authority in some one to issue summary admiralty process *in rem* or *in personam*.

United States Consuls have jurisdiction in cases of contract only at the port where the contract was made, or was to be executed, and in *tort*, only at the place where the injury complained of was sustained. It must follow that when a party defendant has gone to some other port and remains there at the time the cause of action becomes ripe, the injured party is

without remedy, there being no provision for the service of the process of one Consular Court beyond the boundaries of its own district.

Many foreign officers exercising judicial functions in China are mere sinologues, who have spent their lives in a vain attempt to master a language the acquisition of which would exclude the possibility of judicial fitness in them. That a knowledge of the language of the people is regarded by the Chinese themselves as an unnecessary qualification for a judicial officer to possess may be inferred from the fact that, although different languages are spoken in every province in the empire, by the law of China no one can be appointed to a judicial office in his native province, and that Chinese judges invariably employ local interpreters to translate the evidence of witnesses in court.

Other judicial consuls possess barely sufficient knowledge of law, if any at all, to render them dangerous to their compatriots and troublesome to all others who have occasion to invoke their judicial aid, and make them positive obstructions to justice.

It is encouraging to hear that the President of the United States has determined to appoint no man to a judicial consulate hereafter who has not been bred to the law.

A consul invested with judicial power sometimes finds it difficult to distinguish the duties of a judge from those of a commercial agent, and there is a temptation, which is not always resisted, in deciding cases between people of his own nationality and others to follow the example of Sir Alexander Cockburn at the Geneva arbitration, and, even while on the bench as an arbitrator and judge, to "regard himself as in some sense the representative" of his own country, and decide accordingly. If a Chinaman is plaintiff he is always expected to give judgment for defendant. Why not? Is he not a "foreign representative," and is it not a mere matter of "Chinese against foreigners"?

The good dinners and other persuasives which "taipans"* and "headmen" are able to throw into and around "their representative" has on occasions been suspected of tempering the justice of courts in China, both native and foreign; and it is not at all unusual for a consul to be approached privately and talked to or written to regarding a cause pending before him by a party thereto, in the absence and without the knowledge of the other party. If he is an independent man and refuses to be thus degraded, he is accused of opposing the interests of his countrymen, and he may not escape a rap from the foreign office of his government reminding

* partners in a commercial house.

him that he is "the representative" of some great country or other, and that his countrymen have a right to appeal to him for advice and asistance.

The consular officers of many of the treaty powers in China are merchants, and often of a different nation from the one they represent. It is well known the Chinese Government makes serious objection to the recognition of such persons as consuls, especially where judicial matters are involved. It is not to be wondered at that they should dislike to occupy the bench with a man who may himself have been involved in a violation of the revenue laws of the country, or may even be indirectly interested in the issue of the very case in hand.

Many other cases of inconvenience, hardship or injustice due to our present incongruous and imperfect arrangement might be pointed out, but I forbear; to even refer to them all were an endless task.

The remedy, and the only one, for all these evils is an International Mixed Court, composed of judges appointed by the different powers concerned, with competence over all cases between natives and foreigners, and between foreigners of different nationalities. The plan upon which the International Court of Egypt is established, with suitable modifications, might be adopted. Foreign commercial interests in and with China are vastly greater than they are now or ever can be in Egypt. The Chinese judicial system is no less objectionable and no more likely to receive acceptable amendment than the Egyptian system.

It is understood that the foreign ministers at Peking are now jointly considering three great questions affecting the foreign relations of China: likin, official intercourse, and procedure in mixed causes. The former and the latter questions are of paramount importance, not only to the people and government of China, but to every nation having relations with her. While the ministers are in the mood for reforms, would it not be well for them to go a step further and consider what may be done towards the establishment of an International Court for China? One of its most useful ends would be the education of the people of China in the principles and practice of our improved jurisprudence.

I append an interesting account of the origin, jurisdiction and procedure of the International Court of Egypt, from the pen of the Hon. George D. Batchelder, late of Saratoga Springs, N.Y., one of the judges of that court, taken from a late number of the "Albany Law Journal:"

"THE INTERNATIONAL COURT OF EGYPT.

On January 1, 1875, there was inaugurated in Egypt, in pursuance of a special convention entered into between the seven great powers, an international tribunal, or "judicial organization for the trial of mixed processes."

There were established three chambers of mixed jurisdiction, styled tribunals of first instance: one at Cairo, the capital: one at Alexandria, the chief commercial city; and a third at Ismailia, on the Suez Canal, but since transferred to Mansoorah, the chief agricultural city and center of the cotton trade of the Delta: also a Court of Appeals at Alexandria.

Each of the great powers, viz: the United States, England, France, Germany, Austria, Italy and Russia, were entitled to designate two members of the first instance (Supreme Court) and one member of the Court of Appeals. Should additional foreign judges be required by the necessities of service they were to be selected from the minor powers. This necessity has already required magistrates from Holland, Belgium, Denmark, Sweden, Norway, and Greece; so that all the civilized governments are represented in the tribunals except Spain and Portugal.

There was also instituted a "Parquet," at the head of which is a "Procureur-General," assisted by a suitable number of substitutes, or deputies. He has the right in person, or by deputy, to a seat in each tribunal, and is required by the Code to deliver his opinion or "conclusions" in a certain class of civil and commercial cases, which is done by an oral address to the court after the argument of counsel is closed. The function of Procureur-General, while resembling in some respects that of Attorney-General in the United States, especially in criminal proceedings, is peculiar to the courts of Continental Europe, and its characteristics and workings in connection with the tribunal are a subject of considerable interest, which may be hereafter described. Each tribunal is composed of seven judges—four foreign and three natives. Five judges constitute the quorum of a Chamber, maintaining always the same proportion between natives and foreigners. The presiding judge, or president, as he is designated, is, by right, accorded to the foreigners, and is elected annually by a majority vote of his colleagues, and aside from his duties as President of the Public Audiences, he is charged with the general discipline of the clerks, sheriffs and other employés of the Tribunal.

The judges are immovable, either by the power appointing them, or by the Egyptian government, during the five years for which they were designated, but may be impeached for causes compromising their honor or integrity, the Court of Appeals, or a composition of the different tribunals, forming the court for the trial of impeachment. It is stipulated that these tribunals shall be considered as an experiment for the first five years; after which the powers shall determine whether to continue, modify, or abandon the system.

The tribunals are essentially international mixed courts, and are the first regular establishments of the kind ever introduced into any country. The experiment has been watched with great interest

throughout Europe, and their workings have already formed the subject of discussion in numerous international gatherings, besides various European periodicals and journals.

The competence of the tribunals is defined by the treaty as follows:

1. All "contestations" in civil and commercial transactions between *foreigners and natives*, and *between foreigners of different nationalities.*

2. All "contestations" arising out of *title* or *interest in real estate* between *all persons, even of the same nationality.*

3. The Egyptian Government, the Administration of the Daïras (the various private estates of the Khédive and his family) *in all "processes" with foreigners.*

4. The tribunals, without power to adjudicate upon the public domain, or prevent the execution of an administrative measure of the Government, may adjudge, under the Civil Code, all prejudices, or injuries, against an acquired or established right of a foreigner, caused by or arising out of any administrative act.

5. The tribunals, subject to the usual restrictions of nationality, have general maritime and bankruptcy jurisdiction.

The "Statut Personnell," or laws of succession, marriage, divorce, religious privileges, guardianship of persons and of property, etc., are excepted from the competency of the tribunals, this administration remaining in case of foreigners with their consuls, and in case of natives with the local Cadi.

The penal competence is limited to offenses against the administration of justice; offenses against the judges, functionaries or employés; opposition to process, or any interference with the operations of the courts, in which instances the provisions of the Penal Code, transcribed almost literally from the French Code, are applicable. It has been found necessary to apply this penal quality frequently.

The Pacha Governor of Cairo and the Prefect of Police, another Pacha, were each condemned to pay a heavy penalty for having opposed, or rather "impeded" an execution against the property of one of the members of the vice-royal family—an entirely new and unique demonstration of justice in this country.

The composition of the criminal court is novel and worthy of consideration elsewhere. It combines the jury and magistrates into a tribunal in which both elements are merged, at the same time maintaining the best qualities of each. Three judges and four "assessors" or jurors (selected from the resident "notables") constitute the court. They hear the evidence and arguments, deliberate together, fix the sentence, which is determined by a majority, and pronounced at once by the presiding judge.

It will be observed that the accused has the benefit of a "trial by his peers"—the four assessors constituting a majority of the court—and at the same time the deliberations of the jury room, under the guidance of experienced and disciplined judges, are relieved from many of the anomalies and perversions which sometimes characterize the present jury system of the United States and England. The laws in use are styled the "Code Egyptien," and are founded upon the Code Napoleon, modified in many respects to adapt them to the local laws and customs. These Codes

were submitted to and approved by the different powers, before being promulgated in this country.

The law is sub-divided as follows:
Code Civil,
Code of Commerce,
Code of Commerce, Maritime,
Code of Precedure, Civil and Commercial,
Code Penal,

Code of Criminal Instruction (for the preliminary examination of criminals and the investigation of crimes).

The Codes comprehend every department of affairs, defining clearly each profession or occupation, and prescribing rules for their government.

The Statut Personnel," which is excluded from the competence of the mixed courts, will be interesting to examine hereafter.

The Code of Procedure is very simple and is followed in practice in the most literal manner, the interpretations of French jurisprudence, which are adopted, are all in favor of a strict construction which has the merit of rendering its meaning certain, but is, according to the light of the American system, narrow and illiberal, and often works serious hardships and a denial rather than a giving of justice; especially in its restrictions in the department of parol evidence. It would seem that the system of evidence prevalent in Europe and followed here, was founded upon the theory that all business transactions should be in writing, and that, if parol proof be allowed, it must come from other sources than those most likely to be cognizant of the facts.

The question naturally arises: Why should the different powers interest themselves to organize a system of judicature in Egypt, and what necessity existed in this country rather than any other for the contribution of magistrates by the different nations to administer the laws?

The explanation is found in the exceptional and peculiar condition of society in this country, and the fact that the local laws, however wise and well adapted for the subject population, were not administered in a manner acceptable to the resident foreigner; and being founded upon the "Koran," were not conformable to the social and business principles of that large element of the Egyptian population. It should be observed that, from the days of the Crusaders, parts of the present Ottoman Empire have been extensively colonized by Europeans. The condition of anarchy reigning for many centuries in Greece and Italy caused myriads of their inhabitants to seek a shelter in countries bordering on the south and east of the Mediterranean; and the salubrious climate and productive soil of Egypt attracted most of these discontented spirits to her shores. In later years the construction of the Suez Canal, and during the period of our civil war, the lucrative advantages of the cotton culture, brought many thousands of French and English, who, in various capacities, have become permanent residents. In fact, Egypt was a sort of California or "Great West" for the adventurous and fortune-seeking elements of Southern Europe. The result is, that Egypt is filled with resident foreigners, who unlike our emigrants, becoming citizens and subjects of the adopted country, but, on the contrary, having little desire to accept Ottman

naturalization; and there being no disposition on the part of the parent government to permit the expatriation of its subjects, this enormous accession to the Egyptian population, including many generations born upon its soil, has continued to maintain its original allegiance. In order to provide for the protection and control of this element there grew up a sort of foreign government and jurisdiction within these territories, by virtue of treaties and "capitulations," consented to by or extorted from the Ottoman rulers, until, for the past half century at least, in a country where the natives were most heavily oppressed by the reigning despotisms, the foreigner possessed far more extensive rights and privileges than they had enjoyed in their respective "fatherlands." In fact they enjoyed all the immunities and privileges accorded by their own national laws, and were at the same time exempted, or rather *protected*, from the ordinary obligations to the local government incident in civilized countries to citizenship or even temporary domicile.

Naturally, under this system, the diplomatic agents and consuls became each for his own colony a sort of petty potentate. All legal proceedings, both civil and penal, were vested in the consular bodies; and a system of consular courts was established which exercised an absolute sovereignty over its subjects, and often an arbitrary and oppressive authority over nations, and not unfrequently the government itself, in their processes with foreigners. A crime committed by a foreigner, although against a native, was adjudged in the consular court; and all demands of a civil character by natives against a foreigner must address the same jurisdiction. All appeals from the decision in first instance, lay to the courts of appeals and cassation in the country of which the magistrate was a subject. For example: appeals from the French consular court must be brought to the Court of Appeals at Aix; of Italy, at Ancona; of Austria, at Triest; and of England, at London. Great hardship and frequent abuses and often a virtual denial of justice was the result. Its operations were extremely oppressive in matters of claims against the Egyptian government. These claims were numerous and of every variety of character. Nearly all the furnishers of the government as well as of the Khédive, in his enormous private estates, were Europeans, and consequently all contested demands became a matter of quasi diplomatic negotiation, and frequently the whole political power of a nation was brought to bear to enforce a real or fictitious demand of an influential foreigner. And on the other hand, if the claimant was weak and the demand of considerable importance, the ruler of Egypt was not incapable of finding means to bring about a decision in his own interest without reference to the merits. Too frequently the "sword of justice" was dextrously sheathed in a golden scabbard!

It has happened that the family of a deceased contractor, having a claim for a large and liquidated balance, actually died from starvation in awaiting a consular decision which the government found means to delay. And on the other hand, the Egyptian government has been mulct in enormous damages for expectant but absolutely visionary profits in some failing private enterprise, which it had simply *authorized to be carried on in the country!*

The abuses, delays, conflicts and corruptions incident to this system and the lack of any uniform code of laws by which the

various and complicated affairs should be judged, led to a general desire for reform on the part of foreign litigants; and the government, in order to escape the force of the "capitulations," readily consented to become "*justiciable*" to a regular system of "organized justice."

The foreign governments, while recognizing the necessity of a uniform system of procedure, were not willing to surrender to Egypt all the guarantees enjoyed in behalf of their subjects, and, consequently, nearly three years of negotiation and discussion were consumed, during which many obstacles were encountered in adjusting and defining the limits of jurisdiction, the codes of laws, and the mode of designating the judges, when the treaty was concluded by which three international tribunals were established.

The line of demarcation is purely that of cross-nationalities; and not, as might be supposed, the difference of Mohamedan or Christian religious faith.

All Ottoman subjects are imputed as *natives*, which includes the Copts (a very large body of Egyptian Christians), Syrian, Armenian, and many Greek Christians, while Persians, Moroccans, Algierans and many British Indians, although fervent Moslems, are classed as *foreigners*. So it often happens that two followers of the Prophet are found submitting their differences to a tribunal in which a majority are Christians. It is agreeable to state that the decisions are accepted with as little murmuring as characterizes similar transactions in Europe or America; and to-day the natives, who were naturally suspicious and distrustful in the beginning, are generally assigning their litigious demands against other natives to some "foreigner" in order to create a mixed action; and no native embarks in any extensive enterprise for the Khédive or the government without a foreign partner or associate for the same motive.

In practice the competence of the mixed tribunals is found to cover nearly all business transactions in this country, as most of the large capitalists, bankers and contractors are subjects or protégés of some foreign power. Even many native merchants and bankers have found it necessary, in order to secure protection against the exactions of the local authorities, to place themselves under some foreign administration, it being permitted to consuls by most of the European powers (but most happily prohibited by the United States) to accept protégés, in consideration of the payment of a stipulated annual fee, so that, in many proceedings, the sons of Abdallah Hassan and Mohamed el Ramidan, may figure as subjects of England or Italy. Most of the wealthy Jews find protection under the Austrian flag.

In bankruptcy cases, if there be one foreign creditor among a hundred of the same nationality as the bankrupt, it becomes a mixed proceeding and consequently of the competence of the mixed courts.

The official languages are the Arab, French and Italian.

There is, of course, a large corps of sworn interpreters attached to the tribunals, and when a language unfamiliar to the magistrates is employed, it is at once translated if in writing, or interpreted if oral, into French.

Most of the papers in a case ("*dossier*") and the arguments ("*plaidoirie*") and brief ("*conclusions*") are in French. It fre-

quently happens that a proceeding in bankruptcy will develop a dozen different languages. Those in common use in commercial transactions are the Arab, Turkish, Greek, French, Italian and Hebrew; the Jews love to keep their books and subscribe their obligations in their own sacred language. The English, German, Armenian, Persian, Spanish and Abyssinian are frequently found amongst the papers submitted. This confusion of tongues sometimes surpasses the learning of the most accomplished interpreters, but these difficulties are usually solved by transmutation through other languages to the judicial.

The discrepancies in dates and money employed in the Orient are oftentimes more perplexing than the languages. For instance, the 22d of February, 1879, Gregorian calendar, is but the 10th of the same month by the Julian calendar, used by the Greeks, Russians and Americans. It is the 16th of Amchir, 1595, of the Coptic, and 1st Robiawre, 1296, of the Arabic or Mussulman calendar, while the Hebrews remind us of the creation by declaring this to be the 28th Chabat, 5639. The standard of values in this country is the piastre tariff, valued at about five cents. As all the foregoing dates are found in the commercial paper and general business transactions, and as all the various obligations are made payable in as many different kinds of money as there are nationalities, one can appreciate the difficulties in computing interest, or striking a balance, in making up the amount of a judgment.

The Code requires that all decisions shall be in writing, with "motives," and either signed by all the judges hearing the argument or pronounced in open court in their presence. This rather unnecessary provision causes a large amount of labor, but it was deemed advisable that the rather inquisitive and suspicious public should be advised as to the motives and principles controlling all decisions.

The first judgments pronounced against the government were exceedingly distasteful to the Khédive, and he raised the point with the powers that the courts were absorbing and overruling his sovereignty. But he was informed that he must submit, having consented to "sue and be sued" for at least five years. There was no remedy beyond the single appeal prescribed by the treaty. And now he submits as graciously as possible and pays as best he can.

Mr Wood.

No. 64] 2 December 1879 United States Consulate General at Shanghai,

Mr. Bailey Consul General. to the State Department,

Subject: Depart to Sep[t] Circulars No 16. 27 Aug[t] & that of 11 Sept 79

Ans Jan 29/80

DEPARTMENT OF STATE
JAN 7 1880
RECEIVED

ABSTRACT OF CONTENTS.

Acknowledgments & beggs reference to despatch No 55. of 11th Nov 79.

No. 64

United States Consulate General,

Shanghai, 2 December 1879

Hon. Charles Payson

Third assistant Secretary of State,

Washington, D.C.

Sir,

I have the honor to acknowledge the receipt of the Department's Separate Circular No 16. of the 29th of August, and Separate Circular, without Number, of the 11th of September 1879.

In relation to the former I beg to refer the Department to my despatch No 55 of the 11th of November 1879.

I have the honor to be

Sir

Your Obedient Servant

Frank Lee

Consul General.

Ack. Forward letter with Secretary's endorsement on cheque. L. P

9 words

No. 66] Decb. 2d 1879 United States Consulate General at Shanghai,

Mr. Bailey Consul General. to the State Department,

Subject:— Estate of N. Folsom deceased.

DEPARTMENT OF STATE
JAN 7 1880
RECEIVED

Enclosure transmitted to Secretary of Treasury per letter of Jany 2/80 Asst Jany 2/80

ABSTRACT OF CONTENTS.

Transmits open cover to the Secretary of the Treasury, relating to the above estate.

Enclosure

Cover under flying seal addressed to the Secretary of the Treasury.

No. 65

United States Consulate General,

Shanghai, December 2nd 1879

Hon. Charles Payson

Third Assistant Secretary of State,

Washington, D.C.

Sir,

I have the honor to enclose herein a cover under flying Seal to the Secretary of the Treasury, which will give you full information of its character.

I have the honor to be

Sir

Your obedient Servant

Consul General

Copy to Treasury Dept

No. 66] Dec. 19th 1879 United States Consulate at Shanghai,

Mr. Bailey Consul General to the State Department,

Subject:— Contagious Cattle disease

File

ABSTRACT OF CONTENTS.

A contagious cattle disease has visited Shanghai. It broke out in the early part of November. It has been very destructive. This is the sixth visitation Shanghai has suffered from. It is confined at present to Shanghai. Its symptoms are detailed. States the difficulty of obtaining statistics from Chinese. Its relation to the export of hides to the United States. The hides coming from Hankow, where it is believed no disease exists.

No. 66.

United States Consulate,

Shanghai, December 4th 1879

Hon. Chas Payson

3rd Asst. Secretary of State,

Washington, D.C.

Sir,

I regret to have to inform you that a contagious cattle disease, epidemic in character, and very much resembling rinderpest, if it be not the latter itself, has broken out in Shanghai and neighborhood. I have been enabled to collect the following data.

I must preface, however by stating, that, with two exceptions, the dairies and stock yards are owned and managed by natives, and that the stocks consist entirely of native cattle. Of this there are three kinds, viz:

the Buffalo, used principally for milking, the red cattle which come from the river lands, especially Chinkiang and neighborhood, and the black cattle, raised in this neighborhood from Mongol stock.

The two exceptions referred to are managed by Europeans, but their stocks consist mostly of Australian cattle (from English stock) with a sparse sprinkling of American cattle.

The disease broke out in the native stock yards about the middle of November, but the Chinese failed to report the fact to the authorities and the first foreign animal to be attacked was a French heifer lately imported. The disease spread rapidly and in one of the foreign dairies about 40 head were attacked of which over 80 per cent.

died. It is utterly impossible to obtain figures from the native stock-men, but it has been estimated by foreigners, who have occasional access to these places that over 300 head have thus far succumbed, besides a large number which, immediately on the appearance of the preliminary symptoms, were sent to the Knackers.

According to the opinion of experienced foreign ranchmen and veterinary surgeons the disease is endemic to China. Since 1865 the disease has appeared in Shanghai no less than six times, namely, in 1865, 1872, 1875, 1876, and 1879. The ordinary duration of the epidemic is 3 months, but the one of 1875 raged for nearly twice that period. The

first symptoms which the animal developes is, in the cow, a complete stoppage of the milk; a shivering of the muscles of the hind quarters and convulsive + twitchings of the muscles of the neck and shoulder. Diarrhea ensues, and the animal will stand or lie quite still, as if in a semi-comatose condition, but will take water very freely. The gums become covered with a thick cheesy secretion, which, when removed, show the gums to be perfectly raw and the whole mucous membrane of the mouth to be highly inflamed. There is likewise a purulent discharge from the nostrils. The animal will suffer from three to ten days and then usually succumb. The post-mortem

appearances greatly resemble those of the rinderpest. The skin is spotted as if with coagulated blood. The color of the muscular tissue varies from a dark red to a chocolate color, the latter being predominant when the disease has been particularly virulent. The rectum is highly inflamed; purple and black patches are visible in all the mucous membranes, especially those of the throat. The liver is greatly congested and the gall bladder very much distended with bile, which however, is very thin and of a light color: considerable emphysema is usually found in the lungs, but not always, occasionally they present a perfectly healthy appearance.

As far as I can learn the disease is entirely confined to this locality, and this is an important fact ## to consider, on account of the shipment of hides from this port to America. The hides that are shipped, come mostly from Hankow, a port on the Yangtzee River about 600 miles from Shanghai, and are only landed here to be inspected, repacked and reshipped. The shippers of hides claim that there is no disease raging in Hankow or neighborhood, and that the hide of a healthy animal cannot possibly become affected, even if it comes in contact with diseased cattle or skin. Nevertheless, I have thought it my duty to

apprise merchants that I am
making this report, and that
a strict scrutiny will be enforced
at the various ports of the United
States. I also, before certifying to
an invoice of hides, bound for
the United States, require an
affidavit from an Inspector of
hides, that the said hides do
come from a locality other than
Shanghai, and that the particu-
lar lot is entirely free from
disease.

At the present writing the
disease seems to have passed
its worst stage, and if no
untoward conditions arise,
we may hope that it will
entirely have left this locality

in about two or three weeks.

I have the honor to remain

Your Obedient Serv't

Frank H. Mason

Consul General

Enclosure No1 advertisement.

do do #2 do

U. S. CONSULATE GENERAL,

SHANGHAI, *Dec.* 18*th*, 1879.

AN account of the prevalence of a contagious Cattle Disease will be sent from this Consulate General to the State Department by the next mail. Shippers of hides, therefore, to the United States are hereby advised that they will probably meet with difficulty in landing them at the port of destination.

2151c tf

U.S. Consulate General
Shanghai, China

Enclosure No 1
with
Despatch No 66

Copy of Advertisement

Mr Hood.

No 67] Dec. 19th 1879 United States Consulate General at Shanghai,

Mr. Bailey Consul General. to the State Department,

Asst Jan 29/80 Bartlett

Subject: Extended Marine Protests.

DEPARTMENT OF ST
JAN
28
1880
RECEIVED

ABSTRACT OF CONTENTS.

Desires a Book for the record of Extended Marine Protests.

No. 67.

United States Consulate General,

Shanghai, Dec. 19th 1879

Hon. Chas Payson

3rd Asst. Secretary of State,

Washington, D.C.

Sir,

I have the honor to request that you will forward to me for the use of this Consulate General by the first mail, a bound book for Extended Marine Protests.

I have the honor to remain

Your Obedient Serv't

Isaiah W. Davis

Consul General.

Mr Wood.

No. 68] December 23 1879 United States Consulate General at Shanghai,

Ansd Jan 29/80

Mr. Bailey Consul General. to the State Department,

Subject:— Acknowledgement of receipt of Despatches

DEPARTMENT OF STATE
JAN
28
1880
RECEIVED

ABSTRACT OF CONTENTS.

Acknowledges receipt of despatches N° 27/34 incl.

No. 68.

United States Consulate General,

Shanghai, December 23 1879

Hon. Charles Payson

Third Assistant Secretary of State,

Washington, D.C.

Sir,

I have the honor to acknowledge the receipt of your despatches Numbers 27. 28. 29. 30. 31. 32. 33 and 34. the last dated the 6th ultimo.

I have the honor to be

Sir

Your obedient servant

Daniel H. Hanna

Consul-General

File

WWood

No. 69] December 23° 1879 United States Consulate General at Shanghai,

Mr. Bailey Consul General. to the State Department,

Secretary 29/80

Subject:— Chinese Professorships in Harvard University.

ABSTRACT OF CONTENTS.

Answering Departments despatch No 29 relating to the above

No. 69

United States Consulate General,

Shanghai, December 23 1879

Hon. Charles Payson

Third Assistant Secretary of State,

Washington, D.C.

Sir,

Referring to your despatch N° 29 in relation to the establishment of a Chinese Professorships in Harvard University, I have the honor to inform the Department, that the Substance of the despatch has been communicated to Mr Francis P. Knight.

I have the honor to be

Sir

Your obedient servant

David H. Bailey

Consul General

File

W Notes

No. 70] Shanghai Feb 23 1879 United States Consulate General at Shanghai,

Mr. Bailey Consul General. to the State Department,

Subject: Judicial system of the U. States, Gr. Britain & France in China

Ans Jan 29/80

DEPARTMENT OF ST
JAN
28
1880
RECEIVED

ABSTRACT OF CONTENTS.

Answering despatch No. 31, relating to the above.

No. 70

United States Consulate General,

Shanghai, December 23 1879

Hon. Charles Payson

Third Assistant Secretary of State,

Washington, D.C.

Sir,

Referring to your despatch No 31 &
relating to the judicial System of the United States,
Great Britain and France in China, I have the
honor to reply, that I shall report as instructed
as soon as practicable.

I have the honor to be

Sir

Your obedient servant

David H. Bailey

Consul-General

Mr Wood.

No. 71] Decb. 23 1879 United States Consulate General at Shanghai,

Mr. Bailey Consul General. Answ Jan 24/80 to the State Department,

Subject: Dates and Numbers of Despatches

DEPARTMENT OF STATE
JAN
28
1880
RECEIVED

ABSTRACT OF CONTENTS.

Answering despatch No 32 relating to the above

No. 71.

United States Consulate General,

Shanghai, Feb 23 1879.

Hon. Charles Payson

Third Assistant Secretary of State,

Washington, D.C.

Sir,

Referring to despatch № 32., relating to the dates and Numbers of despatches, I have the honor to say, that the corrections have been made and the errors will in the future be avoided.

I have the honor to be

Sir

Your obedient servant

David H. Bailey

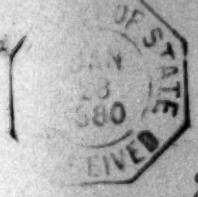
Consul-General

Send copy of instruction to Minn when signed
C. P.

No. 72] December 23d 1879 United States Consulate General at Shanghai,

Mr. Bailey Consul General. to the State Department,

Subject:— Interpreter at Foochow.



ABSTRACT OF CONTENTS.

Transmitting the correspondence between Mr De Lano and Mr Bailey concerning the appointment of the above, and comments thereon. —

Enclosures.

No 1. Mr Delano's letter to Mr Bailey dated Foochow Novb 7. 1879

2 d. d. d. " 19. "

3 do d. d. 29.

4 Mr Bailey's letter to Mr Delano dated Shanghai " 18 "

5 do d. d. Decb 1.

6 d. o d. 6.

No. 72.

United States Consulate General,

Shanghai, December 25 1879

Hon. Charles Payson

Third Assistant Secretary of State,

Washington, D.C.

Sir,

I have the honor to enclose copies of a correspondence between Mr Consul De Lano and myself, concerning the appointment of Mr. J. P. Cowles, by the Minister at Peking, to act temporarily as Interpreter at H. Foochow, during the absence of Mr. Cheshire at H. Canton.

The Minister having already advised the H. Department of his action in the matter, with his reasons therefor, I do not deem it necessary to make any other comments upon the subject than those contained in my No 192, of the 6th instant, to Mr. De Lano, except the remark, that in my opinion the good of the service requires that the action of

the

the Minister should be sustained by the Department, and especially so as Mr. De Lano's objections are unnecessarily technical and obstructive.

I have the honor to be

Sir

Your obedient servant

David H. Bailey

Consul-General

Copy
No 142

Consulate of the United States

Foochow Nov. 7th 1879.

David H Bailey Esquire.

U.S. Consul General

Shanghai.

Sir

I am just now in receipt of a despatch from the Hon. Mr Seward United States Minister at Peking informing me that he has authorized Mr J.P. Fowles jr. to act as Interpreter at this Consulate during the temporary absence of Mr. Cheshire

I write briefly, to inform you that I have already secured the services of a translator and Interpreter, temporarily, and ask you to advise Mr Fowles, if you should see him before his departure for Foochow, not to come here with the expectation of finding employment in the Consulate without first conferring with

me

I am authorized by the Department to employ an Interpreter, that is to say, I was authorized to employ Mr. Cheshire and it appears to me that his (Cheshire's) status here was not fully understood by yourself or by the Legation. Mr C. has quit the employment here of his own motion, and I hold that I have the option of nominating or employing a person in his stead, subject to your approval, and the approval of the Department of State.

At all events, as I read and understand the Consular Regulations, it is not competent for the Legation, to nominate or employ the staff at the Consulates. Will you be good enough to favour me with your own views upon this latter point? You will understand no doubt, that Mr. Cheshire has not been commissioned as

Interpreter here, but I have simply been authorized to "Employ" him, and you will doubtless concede the fact that, so long as the Interpreter is simply an Employé, I may justly claim the prerogative of choosing a person whose association with me in the office is not likely to be distasteful to me.

I should not object to putting myself in correspondence with Mr. Cowles about coming here in Mr. Cheshire's stead, if he is a suitable person to be named Vice Consul, but must claim the option of declining his services if he comes here independent of an arrangement with me.

I have the honor to be

Sir

Your Obedient Servant

(Sd) M. M. DeLano.

U. S. Consul.

Shanghai

Enclosure N° 1

with

Despatch N° 72

Copy of

Mr De Lano's letter to Mr Bailey

dated Foochow Nov 7 1879

No 146 Copy Consulate of the United States

Foochow Nov. 19th 1879.

David A. Bailey Esq^r

United States Consul General

Shanghai

Sir

Recurring to the subject of Interpreter at this Consulate, I beg to inform you that Mr J.T. Fowles Jr. arrived here by last steamer from the North, holding a letter of appointment from the United States Minister at Peking as acting Interpreter, to act during Mr. Cheshire's absence, or until otherwise directed by the Secretary of State.

Failing to find law or precedent for such action on the part of the Minister, I have declined to allow Mr Fowles to enter upon the duties, under or by virtue of said appointment; nevertheless, as there is an actual vacancy in the post of

Interpreter, as well as in that of Vice Consul, and deeming it my duty, in pursuance of the Regulations to nominate a person for the latter post without delay, I have proposed to employ Mr. Cowles in the capacity of acting Interpreter exactly on the same terms as I was authorized by the Department to employ Mr. Cheshire. reporting my action to the Department for approval, and at the same time nominate him to the Department for appointment as Vice Consul; but Mr. Cowles declines to enter upon the duties on such terms (except with the Ministers approval) and will I understand report my action to the Minister

I desire to impress upon you the fact that Mr. Cheshire has unmistakably vacated his post, with the knowledge and understanding that the vacancy would be filled as soon as a suitable person offered

and moreover, that when leaving here he offered to hand me his resignation, He also gave me notice - and I communicated it to the Department — more than a year ago that, in consequence of the re-duction of the salary from $ 2.000 per annum to $ 1.500. he should accept the first situation which offered him better remuneration

I trust you will agree with me that the nomination or employment of subordinates in the Consulates, when not appointed by the President. is the prerogative of the Consuls, and not of the minister. And that my action in the matter will have your approval. I certainly mean no discourtesy to the Minister

I beg to hand you herewith a copy of the document issued by the Minister to Mr. Fowles, and trust that if you

think such a course advisable, you will forward it, with an explanation of my views of the case as explained herein, to the Department of State, although I think that Mr. Seward may abandon the position he has taken in the matter, when he is made aware, that his power to make such an appointment is questioned. Meantime the interests of the Government are not suffering by reason of the vacancy, as I have engaged the services, when required of one of the American Missionaries who is a competent translator and interpreter,

Trusting that I shall be favoured with your early reply, and be given the benefit of your views on the subject under notice,

I have the honour to be

Sir

Your Obedient Servant.

(Sd) M. M DeLano U.S. Consul

(Copy of letter of appointment from Hon. Geo. F. Seward to J. Rowles Jr.)

Legation of the United States
Peking Oct. 29th. 1874.

J. Rowles Jr. Esq.
Peking

Sir.

In virtue of authority in me vested as Minister of the United States in China, I hereby authorize you to act as Interpreter in the United States Consulate at Foochow during the vacancy occasioned by the absence of the incumbent, Mr. F. D. Cheshire, or until otherwise directed by the Secretary of State

The salary attached to the post is fifteen hundred dollars a year. It will be entirely in order for you to draw your drafts upon the Secretary of State at the end of each quarter accordingly. I am not able to say, whether you will be allowed pay from the date when you leave here,

but I shall advise the Department of State that in my opinion; it would be just to pay you for the time, actually and necessarily occupied in the transit

I am Sir

Your Obedient Servt

(Signed) George. F. Seward

Shanghai

Enclosure No 2.

with

Despatch No 72.

Copy of

Mr. De Long's letter to Mr Bailey

dated Foochow Nov. 19. 1879

Low Key.

No 147

Consulate of the United States

Foochow Nov. 29th 1879

David. H. Bailey Esquire

U.S. Consul General.

Sir

Recurring to the subject of my despatch No 142 I have to express my regrets, first that you could not have given me an earlier reply, and secondly that upon replying you did not find it convenient to give me the benefit of your opinion and advice upon the questions raised by me touching the authority of the United States Minister to make the appointments to minor positions in the various Consulates.

Adhering to the Consular Regulations I regard the Consul General as my immediate superior, and it has been my practice during

my tenure of office, to refer to him for opinions, instructions and advice in all cases, except such as would of necessity become subject of discussion between the Minister and the Chinese Government at Peking

It is true as you remarked in your reply of the 18th inst (No 170) that my despatch had reference to the action of the Minister, but I venture the opinion, that the Consul General would feel free, to advise and instruct his subordinates the Consuls. in any case where his own rights and prerogatives had been trenched upon, by the Minister; and instances might arise in which the prompt counsel and advice of our immediate Chief would be most essential in preventing complications and misunderstandings

I shall feel much obliged by your giving me your views upon the question raised in my despatch referred to, Are you of opinion that, by authority of law, or in pursuance of Regulations or special instructions, the Minister in China is authorized to make appointments to the subordinate positions in the Consulates? If authorized to appoint Interpreters, may he not also appoint constables, clerks of courts, Chinese writers jailers &c.?

As far as I know, the practice has been for the Consuls to nominate, or employ the staff in his Consulate, subject to the approval of the Consul General and the Department of State. In the interim between the suspension of the late commissioned Interpreter, and the employment of Mr. Fleshire, I employed one of the American Missionaries, to perform the duties temporarily

rendered my account for his services and it was paid without question

Had there not been so much delay on your part in replying to my despatches on this subject I should have been able to have placed the matter before the State Department, by the last outgoing American Mail. As it is, the case may be so stated at Washington as that my position will be misunderstood

If the Minister had sent Mr Cowles to me with a letter, advising me, to give him employment, or to nominate him for appointment; as he did in Mr Cheshire's case, there would have been no hitch in the matter, and no chance of a difference of opinion between the Minister and myself as to his prerogatives or mine. It certainly is not desirable that controversies

should arise between the Ministers and the Consuls, but I conclude that the law, and the Regulations contemplate that each has his functions and specific rights which are not to be trenched upon by the other

Awaiting your reply

I have the honour to be

Sir

Your Obedient Servant

(Sd) M. M. DeLand

U. S. Consul

Shanghai

Enclosure No 3

with

Despatch N 72.

Copy of

Mr De Lano's letter to Mr Bailey

dated Foochow Nov 29. 1879.

(Copy)

No. 170 United States Consulate General,

Shanghai, Nov. 18th 1879

M. M. DeLano Esq.

Consul

Foochow.

Sir.

I have had the honor to receive your despatch, No 142, of the 7th instant relating to the authorization of Mr. I. F. Cowles, to act as Interpreter, at your Consulate during the temporary absence of Mr. Cheshire

The despatch having reference chiefly to the action of the United States Minister at Peking in the premises, I have thought best to forward a copy of it to that officer for an expression of his opinion upon the question you raise.

I may mention I had no opportunity of seeing Mr Cowles after the receipt of your

your despatch.

I am Sir

Your Obedient Servant

(Signed) David H. Bailey

Consul General

Copy.

No. 185 United States Consulate General,
Shanghai, December 1st 1879.

M. M. DeLano Esq^r
U. S. Consul
Foochow.

Sir

With reference to the subject of your despatches, (Nos. 142 & 146) the latter bearing date Nov. 19th. both relating to the Interpretership of your Consulate, I have thought it best, considering the course adopted by the Minister at Peking, to refer the questions you raise to that officer for his action

I now have to enclose, as instructed, a copy of his despatch No 198 of the 24th ultimo

Should you still desire to take the opinion of the Department of State, the questions you present may go forward in due course, but I incline to the opinion that in view

view of the exigencies of the case, the Department will sustain the action of the Minister

I have the honor to be

Sir.

Your Obedient Servant

(Sd) David H. Bailey

U.S. Consul General

Enclosure

Copy of despatch No 198. dated 24th Nov. from Mr Seward to Mr Bailey.

Copy

No. 192.

United States Consulate General

Shanghai Dec. 6th 1879.

M. Mc. DeLano Esq.

U.S. Consul

Foochow.

Sir

I have had the honor to receive your No 147, of the 29th ultimo, concerning the question of Interpretership to your Consulate

As to your not receiving an earlier reply to your despatch No 142, and the opinion and advice of this office upon the questions raised therein, I have to refer you to my No 185, and to say that it was not deemed advisable to reply earlier, or otherwise, than in that despatch

This office must be left to the exercise of a sound discretion, as to the time and substance of its correspondence,

Subject

subject to review by the Department of State

It should be borne in mind that the temporary transfer of Mr Cheshire to Canton was by the sanction of my immediate Superior, the United States Minister at Peking, whose action under the circumstances I do not call in question

There were two vacancies suddenly created; one a vacancy of the Chief Consular Officer, and of any one to act in his stead, at Canton, arising out of Mr Lincoln's having leave of absence by the State Department to visit the United States; the other of the Interpreter at your Consulate, an office created by an act of Congress, of which Mr Cheshire is the incumbent recognized by the Department.

The exigencies were immediate, and there must be some cohesion in our

system

There can be no question as to the power of the Minister to fill temporarily the vacancy at Canton. It must be remembered that in a private letter you asked my good offices in procuring an Interpreter for you. No one could be found here to fill the place, whereupon by private correspondence the assistance of the Minister at Peking was asked. The appointment of Mr Cowles, a suitable person, to temporarily fill the vacancy, was the result of these good offices. These facts alone, should, in my opinion, be sufficient to set at rest and harmonize the situation, without going into a discussion of the broader ground of the right of the Minister to temporarily fill the vacancy of Interpreter at your post.

Your admission, that if the Minister had

had sent Mr. Cowles to you with a letter ~~~
advising you to give him the place there
would have been no hitch in the matter,
stops you from saying the appointment
was not a judicious one. It seems to
me that there should be a harmonious
acquiesence, where we are all aiming at
the good of the public service. I am not
disposed to yeild the prerogatives of this
Office, nor will I, but I think a generous
rivalry in broad views for the common interest
of the service is better than to stand on too
narrow ground, or to be obstructive about
mere details

I shall always be glad to give you
my support, as I shall hope to have yours,
in any question affecting the substantial
integrity of the service.

The questions you have presented have

not

not gone forward to Washington, and therefore any views you may determine to submit will not have been prejudged.

I have the honor to be

Sir

Your Obedient Servt.

(Signd.) David H. Bailey

Consul General.

Shanghai

Enclosure No 6.

with

Despatch No 72.

Copy of

Mr. Bailey's letter to Mr de Lano

dated Shanghai Decr 6. 1879.

Forward Letter C.P. Wrap Jany 31/80

No. 73] Decbr 23 1879 United States Consulate General at Shanghai,

Mr. Bailey Consul General. to the State Department,

Subject:— W. N. Folsom's Estate

Acks (Enclosure) Jany 29 1880

DEPARTMENT OF STATE JAN 28 1880 RECEIVED

ABSTRACT OF CONTENTS.

Transmitting cover under flying Seal to the Secretary of the Treasury relating to the final settlement of the above Estate.

Enclosure

Cover under flying Seal to the Treasury Department

No. 73

United States Consulate General,

Shanghai, December 23 1879

Hon. Charles Payson

Third Assistant Secretary of State,

Washington, D.C.

Sir,

I have the honor to transmit herewith, under flying Seal, to the Secretary of the Treasury, a final Statement with vouchers, of the Estate of W. N. Folsom Deceased.

Sent T. with a letter Jan 3 1880 AMW

I have the honor to be

Sir

Your obedient servant

Consul-General

Approve — Wmoad

No. 74] 23 December 1879 United States Consulate General at Shanghai,

Mr. Bailey Consul General. to the State Department,

Subject:— Condition of Consulates in China

Refer Jan 29/80

DEPARTMENT OF STATE
JAN 28 1880
RECEIVED

ABSTRACT OF CONTENTS.

Referring to the Depart.ts despatch No. and transmitting Copy of Circular addressed by Mr Bailey to the U.S. Consuls in China in which information on the above subject is asked.

Enclosure

Circular of Mr. Bailey to the U.S. Consuls and Consular Agents in China - Dec 22d/1879.

No. 74.

United States Consulate General,

Shanghai, 23 December 1870

Hon. Charles Payson

Third Assistant Secretary of State,

Washington, D.C.

Sir,

I have the honor to enclose a copy of a Circular addressed by me to our Consuls in China asking for information to enable me to report upon the Condition of the Consulates, as instructed in your despatch № 6.

I have been so pressed with other official work, which could not be postponed, as to necessitate this delay. I hope to be able to report thereon at an early day. I have

I have the honor to be,

Sir,

Your obedient Servant

David W. Bailey

Consul General

Copy Circular

United States Consulate General

Shanghai 22nd December 1879.

To ..... Esquire

Consul (or Consular Agent)

.....

Sir :-

I have to inform you that I am instructed by the Department of State to report upon the Condition of the Consulates in China.

I have therefore to request that you will furnish me, at an early day, with a full and detailed report of the Condition of your Consulate.

The report will be expected to embrace a short resumé of

the

the history of the Consulate beginning with its establishment; its present location with reference to official convenience and contiguity to the business centre of your port; the suitableness of the building for Consular purposes and as compared with your colleagues' establishments, and considering, in view of the rank of your office, its appropriateness in the eyes of the Chinese; the method of keeping and preserving the Consular archives and what provision, if any, is made for their safety in case of fire; what may be done to improve the archives and make them more useful for present and future.

future reference; what kind of a court room you have and how it compares with those of your colleagues of Great Britain, France and Germany; what dockets and records are kept for judicial proceedings, and are all proceedings in each case regularly kept and entered; are your writs, and processes issued, returned and filed in due form, with the usual entries of the officer serving the same and showing his action thereon; what & changes, if any, would you suggest in the Regulations, fees and forms, for the United States Consular Courts in China

as

as contained in the Book of
Regulations issued and published
by this office August 1st 1874;
What are your opinions and your
reasons therefor as to the desirability
or undesirability of a lease for
a term of years of a suitable
building for offices and residence
of the Consul at your port;
What is the character and fitness
of the buildings of your
Colleagues in this respect and
is their location permanent or not;
What are the chief duties of our
Consul at your port, ministerial,
judicial or quasi-diplomatic;
What is the importance of your
post with reference to the interest
of our people, Commercial or
otherwise

otherwise, what have you to report about your Consular Staff as to its sufficiency, efficiency, quarters and salary, and how does it compare with that of your colleagues in these particulars; what are the methods of the appointment of your staff, and in what do they differ in this regard from those of your colleagues, both as to the manner of the appointment and the tenure of the appointee; What remarks have you to make upon the different systems of appointment, the relative tenure of office, and the effect of this difference upon the efficiency of each service, considering whatever is kindred to this query; &c

Chas

what would you suggest as to the
value and necessity of an interpreter
educated and trained for the
post with a career of promotion
in the service open to him; +
what are the titles of the Chinese
officials with whom you +
principally have relations, and
what is the general manner
and bearing of these officials +
towards you; which are the
leading Consulates at your
port and what is their relative
influence and importance; +
who is at present the Dean of
the Consular body at your
port and how is the deanship
usually determined by you?
You will understand that in
speaking

speaking of your colleagues I allude to those of the other great powers at your port, but I have especial reference to those of Great Britain, France and Germany, as they, with us, represent the greatest interests in China.

Touching questions of Salary I shall feel obliged by your reporting as to the adequacy of both yours and that of your subordinates, and any reasons you wish to present for a change in this regard.

In this connection I have it in view to report to the State Department upon the salaries, both as to the Chief and all subordinate Consular officers, of the Consulates of all the great

powers

powers in China -. I do not refer to Merchant Consulates as they are usually without salary or have only a nominal salary. I therefore have to request that you will furnish me with a list of these salaries and all allowances for rents, servants, boat hire etc, etc, at your port so far as may be practicable. I have obtained the same for this port.

Your report, with those of the others of our Consuls in China, will accompany mine to the State Department at Washington.

I shall be pleased by any suggestions you may make

in

in this connection in addition to those arising out of the queries propounded.

I am,

Sir,

Your Obedient Servant

signed David H. Bailey

Consul General

U. S. Consulate General

Shanghai

Enclosure

with.

Despatch No. 74.

Copy of Circular

Mr Bailey to the US. Consuls

in China requesting

information upon the

Condition of their Consulates

U. S. Consulate General

Ack—
Copy to Treasury

C. Treasury 1/30/80
W Wood

No. 75] December 23 1879 United States Consulate General at Shanghai,

Mr. Bailey Consul General. to the State Department,

Subject:— Contagious Cattle Disease

Copy to Sec. Interior 2/4

File

DEPARTMENT OF STATE
JAN 28 1880
RECEIVED

ABSTRACT OF CONTENTS.

Encloses a letter from a mercantile firm on the subject of the export of hides. Also encloses a report of the Inspector of Markets and a news paper extract.

Enclosures

No 1. Copy of letter from Fearon Low & Co.

No 2. Printed report of the Inspector of Markets upon the Cattle Disease

No 3 News paper extract on the same subject.

No. 75.

United States Consulate General,

Shanghai, December 23d 1879.

Hon. Charles Payson

Third assistant Secretary of State,

Washington, D.C.

Sir,

Referring to my despatch No. 66. of the 19th instant, I have the honor to enclose a copy of a letter from
1/ Messrs Fearon Law & Co upon the subject of the export of hides, and a printed extract from a newspaper containing the report of the Inspector of Markets, of the
2/ French Concession, which was made and printed by order of the French Municipal Council and
3/ also a small paragraph, in print, bearing on the same subject

I have

I have the honor to be,

Sir,

Your Obedient Servant

David L. Pierce

Consul General

Copy

Shanghai 16 Decr 1879.

David H Bailey Esqre

Consul General of the

United States.

Dear Sir,

As we understand that it is not improbable some objections may be raised by the Customs authorities in New York against the importation of Hides from this port in consequence of the Report that Cattle disease is now prevalent here, we would beg of you to call the attention of the proper authorities to the fact that all the Hides that are shipped hence to the United States are received from the Yangtze ports, principally Hankow, and are landed here simply to be medicated and Hydraulic packed.

This

This fact should, we think, make it quite clear that it is impossible for the Shipments now going forward to carry a contagion that is only known to exist locally

Your obedient Servants

(Sig.) Fearon Low & Co.

THE CATTLE DISEASE.

To the Chairman of the French Municipality.

Sir,—I beg to hand you a report of the cattle disease which has been destroying so many cattle in the neighborhood of Shanghai. The observations have been taken from day to day by myself.

Between the 7th and 8th November, two water buffaloes died in the dairy of the flour mills,—situated on the Cemetery road.

Between the 7th and 10th November, the disease showed itself in the Chinese dairy, situated near the bridge on the Cemetery road, the proprietor, of which is Sui-dah-ping, and in this dairy the disease lasted for about a week, during which time six cows and one heifer died. The heifer was the one imported in the French mail, and mentioned in my letter to the *North China Daily News*.

About the 26th November, the disease appeared to me to be abating in the French Concession, and spreading towards the English Settlement, for, on or about the above date, the disease showed itself in the Farm. The following list, with the dates attached, will show the number of deaths :—

Nov. 26...	1 cow died.	Dec. 11...	2 cows died.
Dec. 4...	2 „ „	„ 12...	2 „ „
„ 6...	6 „ „	„ 13...	8 „ „
„ 7...	5 „ „	„ 14...	3 „ „
„ 8...	3 „ „	„ 15...	10 „ „
„ 9...	2 „ „	„ 16...	8 „ „
„ 10...	1 „ „		

making in all a total of 48 deaths in "The Farm."

I have also made inquiries respecting the supply of bullocks to the knackers, or grease butchers, for Chinese consumption only, which is as follows :—

Ah Ding	15 to 16	Kow Lee Sam	10 to 12
Sin Kee	20 to 21	Mao sing	20 to 21
San Sceow	20 to 21	Ah See	20 to 21
Ah Sung	20 to 21	Ah King	20 to 21
Yang Lao Doo	15 to 16	Cheu Co Tow	20 to 21
Yang Sing	20 to 21		

The above is the average number of bullocks supplied since August to these butcheries, and has not in any way increased their sales. The butcheries are located in the Chinese town, in a place by name "Pia San Too."

In the Shanghai Dairy (Tahoo) the stock in the latter part of October was from 20 to 22 head of foreign cattle, cows and calves included, and during the early part of November no less than 11 foreign cows and 4 water buffaloes died. From 15th to 20th 4 cows died, leaving one young cow recovering from the disease.

On the 11th December, Mr. Binos, of the French police, and Mr. Seisson, of the Hotel des Colonies, together with myself, visited one of the knackers' houses in the French Settlement. We found from fifteen hundred to two thousand pounds of mostly diseased meat, which Mr. Binos gave orders to have removed at once from the Settlement.

I am, Sir,

Your obedient servant,

A. Charrier,

Inspector of Markets for the French Municipal Council.

Shanghai, 19th December, 1879.

U. S. Consulate General.

Shanghai

Enclosure № 2.

with

Despatch № 75.

Printed Report of the
Inspector of Markets
for the French Municipal
Council.

Cow Hides.—We notice from Mr. H. J. Alpers' Circular report of the trade of Chinkiang for 1879 that the export of cowhides was largely lost in consequence of cattle disease in the North, whereby it is said that four fifths of the cattle were destroyed.

U.S. Consulate General.

Shanghai

Enclosure No 3.

with

Despatch No 275

Newspaper extract

upon the Cattle Disease

Explanation not satisfactory. Bailey
instructions ordering the removal of Messrs
Lewis & Coffey & express the hope that these orders have been complied with
C.P

No. 76] December 23 1879 United States Consulate General at Shanghai,

Mr. Bailey Consul General. to the State Department,

Subject:— Messrs Lewis and Coffey

DEPARTMENT OF STATE
JAN
28
1880
RECEIVED

ABSTRACT OF CONTENTS.

Incloses to Depart Desp. 26. enclosing
Mr Thomas Baynes letter, explaining
the reasons for their non retention
in office—

No. 76.

United States Consulate General,

Shanghai, December 23 1879

Hon. Charles Payson

Third Assistant Secretary of State,

Washington, D.C.

Sir,

In answer to your No. 26. of October 14th, enclosing a copy of a letter from Mr Thomas M. Bayne of Pittsburg in relation to my refusal to employ Messrs Lewis and Coffey in their former positions in this Consulate General, I beg to refer to my despatch No. 13, first series, of October 15th 1878, and to the enclosures therein. +

It is to be observed that Messrs Lewis and Coffey clearly had the option of remaining at their

their posts if the public service required them to do so. I had only a few days before assumed charge of the Consulate General and as they were the only experienced officers connected with it, their services were of the greatest importance to its proper and efficient conduct. I pointed this out to them verbally, as well as by the letters enclosed in my #15, and urgently called their attention to the great embarrassment which would ensue to the service here if they did not remain, at least until I could become familiar with the exceptional duties of this important post. They elected to leave under

all

all these circumstances of embarrassment to the Consulate, and they did not misunderstand that thereby they put their places in jeopardy, and for the simplest of reasons, viz; that I had of necessity to employ persons in their stead, and I could not find any one who would take either of their places as a + temporary "makeshift", to be ousted on their return. + It is not an easy matter to obtain persons suitable in character, ability, and integrity to fill such positions, and it will be readily + understood that those who are suitable are not to be hired by the day as coolies are, nor can they be had as substitutes for

a

a temporary vacancy. +

The sudden departure of Messrs Lewis and Coffey placed this office in such straits as to cause the greatest apprehension of confusion in its affairs. Fortunately in this emergency I had the opportunity of taking Dr Latham and Mr Weiler into the service of the Consulate, upon the condition however that they should remain with me during good behavior. I have had no occasion, and I speak for the public service, to regret their + employment, and I am bound in good faith by my engagement to them, and while they perform their duties so faithfully and efficiently, to retain them in the

positions

positions formerly held by Messrs
Lewis and Coffey. Besides, Dr
Latham and other Writers are abler
and fitter men for the positions
they hold than either other Lewis
or other Coffey. In saying this
I do not wish to detract from
the merits of these last named
Gentlemen, for had they remained
with me no doubt I should have
been content with them; and I
am sure I have the most kindly
feeling for them personally.
Let me assert in the most +
positive manner that their testimony
before the Committee had nothing
whatever to do with their non-
retention in this office - for I
have never read their testimony

and

and do not to this day know the purport of it.

Mr Coffey left Shanghai within a week of his return here, and is now, as I am credibly informed, in the employ of the Pacific Mail Steamship Company.

Mr Lewis is now engaged in business here with an English gentleman, and I learn he is doing reasonably well. I shall interest myself in assisting him in any way I can.

Trusting that my explanations will be satisfactory to the Department and to Mr Bayne as well,

I have the honor to be,

Sir,

Your Obedient Servant

Daniel C. Bee

Consul General

Consulate C. P.

No. 77] Dec. 23 1879 United States Consulate General at Shanghai,

Mr. Bailey Consul General. to the State Department,

Subject:— Vice Consul General at Shanghai

Rec'd Jany 29/80

DEPARTMENT OF STATE JAN 28 1880 RECEIVED

ABSTRACT OF CONTENTS.

Transmitting Mr H. Latham's bond.

Enclosure

Mr H. Latham's (Vice Consul General at Shanghai) bond duly executed.

No. 77.

United States Consulate General,

Shanghai, December 23 1879

Hon. Charles Payson

Secretary of State,

Washington, D.C.

Sir,

Referring to your despatch N. 27, relating to the appointment of a Vice-Consul General at this port, in which you inform me that it has pleased the Department to approve of the nomination of Mr. Hiram Latham to that post, I now have the honor to forward herewith, his bond duly executed and witnessed

The sureties, in my opinion, are amply sufficient.

I have the honor to be

Sir

Your obedient servant

Consul General

Know all men by these Presents:

That we, Hiram Latham ——— principal,
and William Henry Carr
and Charles Carroll Bennett, sureties,
are held and firmly bound to the UNITED STATES OF AMERICA in the sum
of Two — THOUSAND DOLLARS. money of the said United States, to the
payment whereof we bind ourselves, jointly and severally, our joint and
several heirs, executors, and administrators.

Witness our hands and seals this Twenty third day
of December 1879.

The condition of the above obligation is such, That if the above
bounden Hiram Latham ———, appointed
Vice Consul General ——— of the United
States at Shanghai ——— ——— ———
——— ——— ——— ——— ———
shall truly and faithfully discharge the duties of his said office according to
law, and shall truly and faithfully account for, pay over, and deliver up,
all moneys, goods, effects, books, records, papers, and other property which
shall come into the hands of the said Hiram Latham —
or to the hands of any person for his use as such Vice Consul General
——— ——— ———, under any law now or hereafter enacted,
and that he will faithfully perform all other duties now or hereafter lawfully
imposed upon him as such Vice Consul General ———
then this obligation to be void; otherwise, to remain in full force.

Signed, sealed, and delivered in the presence of—

Hiram Latham [seal]

William Graham | William Henry Carr [seal]
Alfred Weller | Charles Carrol Bennett. [seal]

☞ *The following instructions must be particularly observed and complied with:*

1st. The christian names must be written in the body of the bond in full, and so signed to the bond.
2d. A seal to be attached to each signature.
3d. Each signature must be made in the presence of two persons, who must sign their names as witnesses.
4th. The United States attorney, or the Senator or Member of Congress of the district in which the sureties reside, must certify that they are sufficient to pay the penalty of the bond, if the sureties are citizens and residents of the United States. If the sureties are not citizens of the United States, their sufficiency to pay the penalty of the bond may be certified by the Consul.
5th. Bond to be dated.

I, David H Bailey
hereby certify that William Henry Carr
and Charles Carroll Bennett, the sureties named in the
within bond, are severally sufficient to pay the penalty thereof, and that
they are residents of Shanghai China

David H Bailey

Dated at Dec. 23d 1879 Consul-General

Ack

No. 78.] Dec 29 1879 United States Consulate General at Shanghai,

Mr. Bailey Consul General. to the State Department,

Subject:— Death of Viceroy Shen.

Acknowledged Jan 28 1880

DEPARTMENT OF STATE JAN 28 1880 RECEIVED

ABSTRACT OF CONTENTS.

Informs the Dept. of the death of Shen the late Viceroy

No. 78.

United States Consulate General,

Shanghai, Dec. 23d 1879

Hon. Charles Payson

Third Assistant Secretary of State,

Washington, D.C.

Sir,

I have the honor to report, for the information of the Department that it is announced in the Chinese official Paper that Shen, the Viceroy of this Viceregal jurisdiction, died at Nanking on the 18th instant.

Shen was one of the most influential men of this Empire. He had held his place as Viceroy for some Years, and was

known

known as one of the most
Conservative class.

It was under this
rule that the property of the
Rail Road was bought, and
destroyed, as is understood,
at his instance.

I shall look with
forward the the appointment
of his successor with
interest.

I have the honor to be,
Sir,
Your obedient Servant
Lt. Col. L. Bailey
Consul General

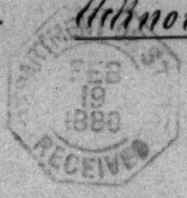
Mc Wood

No. 79.] 13th January 1880 United States Consulate General at Shanghai,

Mr. Bailey Consul General. to the State Department,

Subject:— Acknowledgements of despatches.

store clerk. 1/1880



ABSTRACT OF CONTENTS.

Acknowledges receipt of despatches N° 35 to 38 inclusive.

No. 79.

United States Consulate General,

Shanghai, January 13th 1880

Hon. Charles Payson

Third Assistant Secretary of State,

Washington, D.C.

Sir,

I have the honor to acknowledge the receipt of your despatches Numbers 35, 36, 37 and 38.-

I have the honor to be

Sir

Your obedient Servant

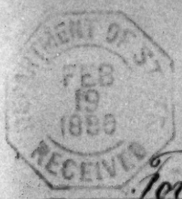
Consul General

No. 60] 13th January 1880 United States Consulate General at Shanghai,

Mr. Bailey Consul General. to the State Department,

Subject:— Endorsing enclosures and giving a list of them at the close of despatches.

received February 1, 1880



ABSTRACT OF CONTENTS.

Forwards copy of Mr Bailey's Circular directed to all Consulates and Consular Agencies in China on the above subject.

Enclosure

Copy of Mr Bailey's Circular dated 8th January 1880 to all U.S. Consuls and Cons. Agencies in China.

No. 80.

United States Consulate General,

Shanghai, January 13th 1880

Hon. Charles Payson

Third Assistant Secretary of State,

Washington, D.C.

Sir,

Referring to your despatch N°35 # relating to the manner of endorsing enclosures and giving a list of them at the close of # despatches, I have the honor to enclose a copy of a circular, which I have prepared and # sent to all the Consulates and Consular Agencies of China.

I have noted the instructions regarding the return for correction of all despatches that are deficient in the particulars adverted to and shall strictly adhere to them.

I have the honor to be

Sir

Sir

Your obedient servant

Consul General

Copy

Circular U.S. Consulate General

Shanghai January 8th 1880

Sir,

I am in receipt of a despatch from the Department of State, representing that "the # continued disregard shown by many of the Consular Officers in China to the regulations and instructions of the Department, which in some instances have been made personally, in regard to the manner of indorsing the enclosures and giving a list of them at the close of their # despatches, is the cause of much delay and # inconvenience in the transaction of the business of the Department." And I am directed to immediately issue a circular to the Consular Officers in this jurisdiction, calling their attention to this irregularity, and directing them to

conform

conform strictly to the requirements of the Regulations in respect to the preparation and forwarding of correspondence".—

It is of the utmost importance to the transaction of the business of the # Department that the requirements of the Consular Regulations be carefully observed.

Paragraphs 80, 81, 82, 83, 84 and 85 contain full and complete directions in relation to the proper preparation, endorsement and the giving of a list of enclosures at the close of despatches.

I invite your close attention to Article 10. of the Regulations for 1874.

In view of these representations of the Department it will be my duty, as instructed, to hereafter return for your correction all despatches which are deficient in the particulars adverted to.

I am

I am Sir

Your obedient servant

sign'd David D. Bailey

Consul General

Shanghai.

Enclosure

with

Despatch N° 80

Copy of

Mr. Bailey's Circular dated

8/1 1880 to all Consulates & Con. Agents

in China

File

Wilford

No. 81] 13th January 1880. United States Consulate General at Shanghai,

Mr. Bailey Consul General. to the State Department,

Subject:— Importation of Statuary.

Acknd March 1, 1880

DEPARTMENT OF STATE
FEB
19
1880

ABSTRACT OF CONTENTS.

Informs, having forwarded the Treasury Department's circular on the above subject to all the U.S. Consulates and Consular Agencies in China.

No. 81.

United States Consulate General,

Shanghai, January 13th 1880

Hon. Charles Payson

Third Assistant Secretary of State,

Washington, D.C.

Sir,

Referring to your despatch N°36 enclosing a circular from the Treasury Department bearing on the question of Statuary, I have the honor to inform you, that I have # forwarded a copy of the same to all the U.S. Consulates and Consular Agencies in China for their guidance.

I have the honor to be

Sir

Your obedient servant

David Lo Shaw

Consul-General

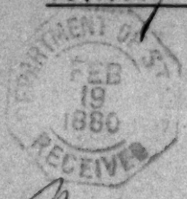
File

No. 82] 13th January 1880 United States Consulate General at Shanghai,

Mr. Bailey Consul General. to the State Department,

Subject:— Comity of Courts.

Sent Allen 1.1880 Wood



ABSTRACT OF CONTENTS.

No immediate necessity for considering the above subject, shall reply at greater length later on.

No. 82.

United States Consulate General,

Shanghai, 13th January 1880.

Hon. Charles Payson

Third Assistant Secretary of State,

Washington, D.C.

Sir,

I have the honor to acknowledge the receipt of your despatch N°38, bearing date Nov. 21st, relating to a question of Comity between the Court for this Consulate General and the Court of Great Britain.

Happily there is no immediate necessity for considering the subject. I shall, however, reply at greater length so soon as the great pressure of business on this office comes to be somewhat relieved.

I have the honor to be
Sir
Your obedient servant

Consul-General

Copy to Treasury Dept C.P. Woodd

No. 83] January 13th 1880 United States Consulate General at Shanghai,

Mr. Bailey Consul General. to the State Department,

Subject:— Cattle plague

Sent always 1: 1880
Copy to Treasury Dept
March 23rd 1880

RECEIVED FEB 19 1880

ABSTRACT OF CONTENTS.

Cattle plague still exists in Shanghai; also at Ningpo; but not at Chinkiang. No report yet from the Consul at Hankow. Query as to whether the disease can be transmitted to the United States in cured hides?

No. 83.

United States Consulate General,

Shanghai, Jan. 16th 1880

Hon. Chas. Payson

3rd Asst. Secretary of State,

Washington, D.C.

Sir,

Referring to my Number 66 of date December 19th 1879, I have the honor to inform you that the cattle plague therein alluded to still exists in this vicinity. In the two foreign dairies, however, mentioned in that despatch, it seems to have exhausted itself, but native dairymen are still suffering considerably and are loosing numerous cattle. In view of the importance of this matter I wrote to the Consuls of Ningpo, Chinkiang

and Hankow, asking them if the disease was prevalent in the districts under their jurisdiction. At the time of writing replies from two only have been received. Mr. Scruggs, Consul at Chinkiang, states that there has been no cattle disease in his district since 1878, and that at present there are no apprehensions of any. Mr. Lord, Consul at Ningpo, replies that the disease was first known in his district in 1878; that it has been worse during the past season; that it is characterized by very much the same phenomena as have been described in my despatch, viz: the rapidity of its contagion and the large per centage of fatal results. He thinks, however, that

at present it is subsiding. He does not think that any hides go from that port to the United States. From Hankow I have not yet received a reply; but I have seen affidavits made by the municipal authorities of that place, whose signatures have been authenticated by the U. S. Consul, to the effect that no such disease is prevalent there.

I still consider it my duty to refuse to certify to invoices of hides unless accompanied by an affidavit that the skins come from places other than Shanghai and vicinity. I believe it is a mooted question whether hides can contract or carry the disease. I can only say that the hides

shipped to the United States, to the best of my knowledge, all come from the vicinity of Hankow; that they are landed here merely for repacking and medication, and I must therefore leave to the authorities at home to take what other precautions they may deem necessary to protect the United States ports from being infested with this disease.

I have the honor to remain, Sir,

Your Obedient Servt

David H. Shaw

Consul General.

Ack.

Wood

No. 84] 13 Jan'y 1880 United States Consulate General at Shanghai,

Mr. Bailey Consul General. to the State Department,

Subject:— Tchong-Haou (Chung Hao) Ambassador to Russia.

Received Feb'y 11, 1880

ABSTRACT OF CONTENTS.

His return from Europe and hence overland to Peking. Rumors to the effect of his having been degraded. Conjectures upon that possible event.

Enclosure

Copy of Translation of Imperial Decree regarding Tchong Haous degradation

No. 84.

United States Consulate General,

Shanghai, 13th January 1880

Hon. Charles Payson

Third assistant Secretary of State,

Washington, D.C.

Sir,

You are no doubt aware, as a matter of public history, of the recent return of Tchong Haou (Chung Hou) to China after having negotiated a treaty + with Russia for the retrocession of Kuldja; and doubtless you are advised, from other sources, of the terms of that treaty.

This distinguished man, who is of the blood of the Imperial family, a manchu, and a most astute Statesman and diplomate, whose titles, as given by his official card in his recent Mission, # are

are, —

Ambassadeur Extraordinaire et +
Plenipotentiaire de S. M. l'Empereur de
Chine

Tutenr Impérial, Grand Chamberlan,
Membre du Tsongli-Yamen,
Président de la Cour des Requêtes
Accredité auprès de S. M. l'Empereur
de toutes les Russies, —

and whose high rank is indicated in
Chinese as,

Senior Guardian of the Heir-apparent,
of the First Button, Vice-President of the
Board of Civil Office, Promoted three +
Grades, a Manchu under the Bordered
Yellow Banner,

reached Shanghai on his return on the
1st of December of last year. After
remaining here a few days it was given
out

out that he would journey overland to Peking, a distance of about one thousand miles, by the slow and exceedingly incommodious system the Chinese have for travelling by land, necessarily occupying some three weeks or more, instead of going direct by Steamer to Tientsin, Navigation being then open, and thence to Peking + where he could easily and comfortably arrive within six or seven days. + This movement was quite a surprise to those who knew that he was not only accustomed to sea voyages but that he preferred the comforts of such a voyage to the discomforts and weariness of travel by Chinese overland modes. It was at once suspected that there must be a grave motive

for

for this divergence from the usual route via Tientsin, as if he were hoping in some way for the good offices of time. On the 7th of December he departed by the land route.

There is now an extraordinary rumor in Shanghai, received through two high official sources, to the effect that Tchong Hsou has been degraded and deprived of all his honors by the Imperial Government at Peking. This rumor is so authentic as to give it almost the force of a fact + instead of idle gossip - at least it is within the limits of the probable.

To those who are familiar with the devious paths of Chinese politics there are perhaps several solutions of this, as it has been denominated, "startling

"Startling news".

Singularly enough it was announced sometime ago that Tchong Haou was returning to China on leave of + absence. Seeing that he had negotiated the treaty, and thus fullfilled the purpose of his mission, it is a curious official announcement from Peking that he was returning only on leave of absence. It is asserted by some persons who are well informed that the Peking Government is highly dissatisfied with the treaty, and that it holds that the ambassador has exceeded his authority; that he has conceded too much for what he obtained.

The establishment of Russian Consulates, and other trade advantages throughout the empire, and the payment of a + large sum of money to Russia for

her

her expenses in Kuldja, are all said to be exceedingly distasteful to the + Imperial Government, and therefore it puts this mark of great disfavor upon him. The reason said to be given by the Yamen for its action + towards Tchong Hsou, that he left his post without authority, will scarcely hold, since that office in a circular note to the Foreign Ministers during their recent conference at Peking, said that they knew by telegram - (the first time the Yamen had employed the word) that their ambassador would leave for China, on a day named, on leave of absence.

By others it is believed to be a most subtile Court intrigue and is intended as a blow at the power of Prince

Kung

Kung, and possibly a covert +
assault, by purely Chinese influences,
upon the dynasty itself. =+

Again, it may have no other +
significance than a temporary +
abasement of a great and growing
man, by the usual Chinese methods,
to keep him in check and exhibit
the power of the throne.

It is also believed that China since
her successes in the North West, and
since the overthrow and arrest of the
rebel Chief Li Yang Tsai in Quantung,
has become inflated, and that the
opposition party are dissatisfied +
with the actions of Prince Kung,
who has principally managed the
Russian Negotiations. Thus there is
a belief by the well informed that

China

China will not only not ratify the Russian treaty, but that in her present frame of mind she will decline to meet Japan any further on the Loochoo an question; but war is scarcely looked forward to in any direction, although a certain tension is apprehended between China and Russia for sometime to come.

Tchong Haou's fall is the prolific source of many theories!

At this distance from the theatre of this event, if such an event has happened, to account for the reasons and influences which have brought it about, is at once difficult and speculative, but should the rumor prove to be altogether true, this great figure in the Imperial family,

and

and in the Chinese Central Government,
and who has recently stood so largely
in the eye of the world will have
been suddenly reduced to the rank
of an ordinary subject - a most
extraordinary event for China.

If I were to add a postcript to
this dispatch I might, not inappropriately,
point out the interest Great Britain
has at this juncture in preventing an
understanding between China and Russia,
for Englands interests are supposed to
necessitate her foiling Russia at
all points.

I have the honor to be,

Sir,

Your obedient Servant

Frank H. Bailey

Consul-General

P.S

P. S.

Since writing the above the Italian Minister, M. De Lucca, who is now in Shanghai, has kindly furnished me with a copy of the Imperial Decree, which I enclose.

J. W. B.

Imperial Decree 21st day 4th moon

The Junior member of the Imperial Censorate, Chung How, an Envoy by Imperial Commission, having taken upon himself to start on his return # voyage to the capital, without waiting for the Imperial Commands, We hereby order the proper board with rigour to consult and decide upon the case We deprive him in the meanwhile of all his official positions awaiting the decision of the board.

We order the Cabinet Ministers, the Chiefs of the Boards and Nine minor departments, the Members of the Hanlin, the Chiefs of the department of the Imperial household and the Members of the Censorate to discuss in council the article of the treaty (made by him) as well as all the successive reports of the Tsungli Yamen - and thereafter to report to Us. -

No. 85] 14 January 1880 United States Consulate General at Shanghai,

Mr. Bailey Consul General. to the State Department,

Subject:— Mr Cowles's acct for Interpretations &c.

Sent to Mr. Wood 1880

ABSTRACT OF CONTENTS.

Transmits the instruction from the U.S. to Mr Bailey Minister Peking regarding non payment of Mr De Lano's account for interpretations &c pending the decision of the validity of Mr Cowles appointment.

Suggests the payment of the Interpreters Salary to Mr Cowles from Nov 1st to Dec 31st 1879. as per enclosures.

Enclosures

No 1. Copy of letter of Mr Cowles to the Hon: William M. Evarts, Secretary of State.

2. Mr Baileys Certificates dated 14 Jany 1880 entitling Mr Cowles to receive Salary from Nov 1st 1879.

No. 85

United States Consulate General,

Shanghai, 14 January 1880

Hon. Charles Payson

Third assistant Secretary of State,

Washington, D.C.

Sir,

Referring to Mr Consul DeLano's dispatch No 258, of the 31st ultimo, covering his vouchers for cost of + interpretation and translations, I have the honor to ask your + attention to an instruction, of December 9th, given me by the United States Minister at Peking in the following language:

"Mr Carles presented himself to Mr "Delano on the 16th day of November "and declared his readiness to enter "upon the discharge of his duties.

In case

"In case Mr. De Haro transmits an
"account for the services of any other
"person as Interpreter after that
"date, be so good as to advise the
"Secretary of State and the Secretary
"of the Treasury that his account is
"being sent, and that I have requested
"you to suggest that it should not
"be paid until the question of the
"validity of Mr. Cowles' appointment
"has been passed upon."

In compliance with that instruction,
and in accordance with the tenor
of my dispatch No 72 of December
23d, and the enclosures therein, I
beg to suggest that Mr. J. P. Cowles
be allowed to draw the Salary of
the Interpreter / when his proper Vouchers
go forward / for that Consulate

from

from November 1st to December
31st 1879, as per his letter to the
Honorable Secretary and my
certificates, herewith, and that
no allowance be granted to any
other person for the same. +
Of cause this suggestion is based
upon an expectation that the
action of the Minister in the
Matter of the appointment of
Mr Cowles may be sustained.

I have the honor to be,

Sir,

Your Obedient Servant

Asst Lt Bailey

Consul General

P.S. As the mail is to close
immediately may I ask
that the Secretary of the
Treasury

Treasury be informed in
accordance with Mr.
Seward's instructions, if
the Department deems
it necessary.

Foochow, Janry 9th, 1880.

Sir,

I have the honour to advise you that I have drawn at sight upon your goodself drafts No. 1. and 2. for $66.66 and $183.24 respectively being amounts due; No. 1. for salary for time necessarily occupied in transit from Pekin, to my post here as Acting Interpreter in the U.S. Consulate under appointment by the U.S. Minister in China by despatch to myself dated Oct 29th/79.; and No. 2 for salary similarly due for time after duly reporting for duty at the Consulate here. Mr. Seward in the despatch referred to, told me I should be quite in order in drawing upon you at the end of the quarter and further informed me that he should advise you that he thought it would be just to pay me for the time spent in transit which is now covered by draft No. 1.

The drafts are accompanied by such voucher as I have been able to give without the assistance of the Consul who is still unwilling to recognize me as in any way legally appointed, and I have referred to Mr Minister's correspondence with the Department as further voucher in re.

The drafts have been endorsed to the order of the Hong Kong and Shanghai Banking Corporation and I hope that when presented by their correspondents or by others, they will be duly honoured.

I have the honour to be

Sir,

Your most obedient servant

J. P. Cowles, Jr.

To the honourable
William M. Evarts
Secretary of State
Washington D.C.;
U.S.A.

U. S. Consulate General

Shanghai

Enclosure N 2

with

Despatch N 85

Mr Bailey's Certificate dated

Shanghai 14/1 80 entitling Mr Cowles

to receive Salary from March 1st 1879.

Mr Wood

No. 86] Jany. 26, 1880. Rec'd March 16/80 United States Consulate General at Shanghai,

Mr. Railey, Consul General. to the State Department,

Subject:— Mixed Court Returns.

ABSTRACT OF CONTENTS.

Transmits Returns of Criminal cases brought before the Court during the quarter ended December 31st, 1879.

No. 86

United States Consulate General,

Shanghai, Jan. 14, 1880.

Hon. Charles Payson,
Third Assistant
Secretary of State,

Washington, D.C.

Sir,

I have the honor to transmit herewith the Returns of Criminal cases that have been brought before the Mixed Court of the Imperial Chinese Government and the United States Consulate General for this Consular District during the fourth quarter of 1879.

I have the honor to be,
Sir,
Your Obedient Servant
Frank H. Bee
Consul General.

[FORM N

Imperial Chinese Government and Mixed COURT OF THE UNITED STATES CONSU

Return of Criminal Suits from the 1st day of Octob

F CASE.	DATE OF FIRST PROCEEDINGS.	NAME AND NATIONALITY OF PLAINTIFF.	NAME OF DEFENDANT.	NATURE OF SUIT	
1	October 2d	Municipal Council	Pu a-seng Yai a-shuang Hu a-lin	Nuisance	
2	" "	Chin Chin Chiang	Chang pei-jin	Assault	Ca
3	" "	Municipal Council	Hao-Chao-chuan	Gambling	Gu
4	" "	" "	Tang a-fu	Theft	½
5	" "	" "	Wang Sheng Chuan	"	1
6	" "	" "	Wang Tung San Chang Hao-lin	Nuisance	
7	" "	" "	Hu a pao	Drunk & incapable	Co
8	" "	Hsü Chin-hai Chien a sê Chin Chin Kuei Chou Hsiao-lin	Hsü a-lin	Stabbing & wounding	Ke
9	" "	Hua Heng San	Tang Sên Shan	Assault	$1
10	" "	Municipal Council	Yang a ta	Theft	2
11	" "	" "	Chang E-fang	Gambling	½
12	" "	" "	Wang a ta	Jail breaking	100
13	" 4.	" "	Chên Fu sheng	Theft	10
14	" "	Russell & Co.	Wang chin fang	" "	100
15	" 9	Municipal Council	Han Hsin Chan	Plying carriage without licence	
16	" "	J. Simpson	Hu a-ho	Theft	2
17	" "	Municipal Council	Tan a yu	Nuisance	
18	" "	F. A. May	Chên tah	Collision	Fa
19	" "	Shên Hsin-fu	Shan Chien Sheng	Theft	2
20	" "	Wang Tsai Kuei	Pao Ling hsin	" "	Ke
21	" 11	Municipal Council	Fêng A-lin	Loitering	½
22	" "	H. Symons	Wang Po sheng	Nuisance	3
23	" "	Wang Tsai han	Pao ling hsin	Theft	½
24	" "	Chên-Hsi	Chou A Sung & Hua ming liang	Assault	D

ab Chinese Government and [Form No. 137.]

F THE UNITED STATES CONSULATE GENERAL AT SHANGHAI CHINA.

al **Suits from the** 1st **day of** October **to the** 31st **day of** December 1879, **inclusive.**

NAME OF DEFENDANT.	NATURE OF SUIT	JUDGMENT	AMOUNT OF FINE IMPOSED.	AMOUNT OF FEES CHARGED AND RECEIVED.	DISPOSITION OF FINES AND FEES.	APPEAL
Pu a-tseng Yai a-shuang Ku a-tsi	Nuisance		$0,25 each		Municipal Hospital Fund.	
Chang jui-jin	Assault	Continued				
Kao Chiao Chuan	Gambling	One year in the chain gang.				
Tang a-fu	Theft	½ months' jail				
Wang Sheng Tsuan	"	1 months' jail				
Wang Tung San Chang Kao Sun	Nuisance		$0,25 each		" " "	
Hu a pao	Drunk & incapable	Continued				
Hsü a-liu	Stabbing & wounding	Remanded				
Tang Sen Shan	Assault	$1.00 damages				
Yang a ta	Theft	Deported				
Chang E-fang	Gambling	½ months jail				
Wang a ta	Jail breaking	100 Blows and to serve out original sentence.				
Chen Fu sheng	Theft	100 Blows				
Wang chin fung	" "	100 Blows & 3 months jail.				
Han Hsin Shan	Plying carriage without licence		$ 5.00		" " "	
Hu a ho	Theft	2 months' jail & 1 months' cangue				
Tsu a yu	Nuisance		$0,25		" " "	
Chen tah	Collision	Fails 15 damages				
Shaw Chien Sheng	Theft	2 wks jail				
Pao ting hsin	" "	Remanded				
Feng A-liu	Loitering	½ months' jail				
Wang Po ching	Nuisance	3 days' jail				
Pao ting hsin	Theft	½ months jail				
Chow A Lung & Hua ming hang	Assault	Dismissed				

Marshal of the U. S. Consular Court.

[Form No. 137.]

Imperial Chinese Government Land Tax
Mixed COURT OF THE UNITED STATES CONSULATE GENERAL A

Return of Criminal Suits from the 1st day of October to the 31st

NO OF CASE.	DATE OF FIRST PROCEEDINGS.	NAME AND NATIONALITY OF PLAINTIFF.	NAME OF DEFENDANT.	NATURE OF SUIT	JUDGMENT	AMOUNT OF FINE IMPOSED.
25	Oct 11	Hew a fu	Yang chin shan	Theft	1 week's Cangue	
26	" "	Municipal Council	Chin Lian chang	" "	Dismissed	
27	" 14	C.M.S. Navy Camp	Lin a fêng			
			Yang a fêng	" "	1 months jail each &	$15.00
28	" "	Municipal Council	Chu a pao	" "	1 months jail	
29	" "	" "	Li pao yü	Loitering	Dismissed	
30	" "	S.S. "Deucalion"	Wang a pao		1st - 200 Blows;	
			Yu Kai tsao	Theft	2nd - 100 "	
31	" "	Russell & Co	Chên a Jun	" "	1 month Cangue	
32	" "	Li a shih	Chên a shêng	" "	1 years jail	
33	" "	Municipal Council	Menching yuan	Breach of		
			Hsu a pao	Municipal Regulation		$1.00 each
			Wang a shêng			
34	" "	Lin a mao	Teh sau kuan	Theft	Dismissed	
35	" "	Municipal Council	Chang kuang chao	Nuisance		$0.25
36	" 16	J Rouse	Wu kuan chin	Robbery	$30 - to be made good to plaintiff	
37	" "	Municipal Council	Wang yung yuan	Nuisance		$0.25
38	" "	" "	Wang chun lai	Theft	1 years jail	
39	" "	" "	Chu yuan heias	Drunkenness	Dismissed	
40	" "	" "	Yao chin shêng			
			Li a san	Breach of peace		$0.25 each
41	" "	Chang Kaw ting	Hu wên lai	Theft	Remanded	
42	" "	Municipal Council	Chin Erh	Gambling	60 Blows	
43	" "	Wang ying kuei	San chin yü	Theft	1 week's jail	
44	" 21	Municipal Council	Chên a shêng	" "	Discharged	
45	" "	Yang a shuang	Wang a yü	" "	1/2 months jail	
46	" "	Municipal Council	Hsü chin yuan	Gambling		$0.50
47	" "	Wang otu shih	Chang a ping	Assault	$10 - damages	
48	" "	Wang Shih	Chang a mu	Robbery	Remanded	
49	" 23	Municipal Council	Chu a-êrh	Plying for hire without license		$2.50

Marshal

Imperial Chinese Government [FORM No. 137.]

COURT OF THE UNITED STATES CONSULATE GENERAL AT SHANGHAI CHINA.

Criminal Suits from the 1st day of October to the 31st day of December 1879, inclusive.

NATIONALITY OF PLAINTIFF.	NAME OF DEFENDANT.	NATURE OF SUIT	JUDGMENT	AMOUNT OF FINE IMPOSED.	AMOUNT OF FEES CHARGED AND RECEIVED.	DISPOSITION OF FINES AND FEES.	APPEAL.
...u	Yang chin chan	Theft	1 weeks Cangue				
...Council	Chin Kuan chang	" "	Dismissed				
...ig Countz	Lin a pëng						
	Yang a pëng	" "	1 months jail and $	$15.00		Municipal Hospital Fund.	
...Council	Chu a pao	" "	1 months jail				
"	Yü pao yü	Loitering	Dismissed				
...calian'	Wang a pao		1st = 200 Blows;				
	Yu Kai Kéo	Theft	2d = 100 "				
...tes	Chën a jun	" "	1 month Cangue				
...l	Chën a chëng	" "	1 years jail				
...l Council	Meuching jian	Breach of					
	Yen a pao	Municipal Regulation		$1.00 each		" "	"
	Wang a chëng						
...nao	Yeh sau kuan	Theft	Dismissed				
...l Council	Chang kuang chai	Nuisance		$0.25		" "	"
	Wu kuan chin	Robbery	$30 - to be made good to plaintiff				
...Council	Wang yung jian	Nuisance		$0.25		" "	"
"	Wang chin lai	Theft	1 years jail				
"	Chu jian keiao	Drunkenness	Dismissed				
."	Yao chin chëng						
	Li a sau	Breach of peace		$0.25 each		" "	"
...ching	Hu chën kai	Theft	Remanded				
...l Council	Chin Erh	Gambling	60 Blows				
...ing kuei	Sau chin yü	Theft	1 weeks jail				
...l Council	Chën a chëng	" "	Discharged				
...huang	Wang a yü	" "	1/2 months jail				
...l Council	Kei chin yiao	Gambling		$0.50		" "	"
...en shih	Chang a ping	Assault	$10 - damages				
...hih	Chang a mu	Robbery	Remanded				
...l Council	Chu a-ërh	Flying for hire without license		$2.50		" "	"

Marshal of the U. S. Consular Court.

[Form No. 137.]

Imperial Chinese Government and the Mixed COURT OF THE UNITED STATES CONSULATE GENERAL A

Return of Criminal Suits from the 1st day of October to the 31st

NO OF CASE.	DATE OF FIRST PROCEEDINGS.	NAME AND NATIONALITY OF PLAINTIFF.	NAME OF DEFENDANT.	NATURE OF SUIT	JUDGMENT	AMOUNT OF FINE IMPOSED.
50	October 23.	Municipal Council	Li a chin	Theft	Discharged	
51	" "	Huang Wan chun, Chen Chu tah	Fu Ju pao	Obtaining money under false pretences	Remanded	
52	" "	Municipal Council	Han A nan	Theft	Discharged	
53	" "	Sun Cheng ning	Hsü Hsiao shan	Illegal sale of land	Sale cancelled	
54	" 28	Municipal Council	Chiang a yn	Gambling	80 Blows	
55	" "	" "	Chen a Kun	Begging	Warned	
56	" "	" "	Lin Hsien pin	Gambling	80 Blows	
57	" "	" "	Chan Chao wên, Sun Fu shan	Fighting	1 days jail each	
58	" "	Wang cheng pao	Wang Kai fu	Theft	80 Blows	
59	" "	Hsia A-san	Chang jen cheng	Assault	80 Blows	
60	" "	Municipal Council	Chen yao lai, Chu a fu	Drunkenness	Cautioned	
61	" "	Chan chin tao	Wang a erh, Chou Tsung yuan	Fighting	Dismissed	
62	" 30	Hsu pei yü	Shen Nien fu	Theft	10 days jail	
63	" "	Chang shao cheng	Chen lai pao	" "	1 months jail	
64	" "	Yü Tung an	Chang a mao, Wang a san	Fighting	Dismissed	
65	" "	" " "	Fang tzu shan, Pan yao shih	Drunkenness	Dismissed	
66	" "	Liang Tien yun	Li Te hsin	Assault	Handed over to the higher Chinese	
67	" "	Municipal Council	Hu a ta, Li chin mu	Creating disturbance	Dismissed	
68	November 4	A. P. Sylva	Chen yü chuan	Theft	Withdrawn	
69	" "	Municipal Council	Ma chien cheng	" "	½ months jail	
70	" 6	" "	Chen a tsai, Sao Mei Hsieh	Creating disturbance	Withdrawn	
71	" "	Sao ching ho	Shen a hsin	" "	Dismissed	

Marshal

[Form No. 137.]

...erial Chinese Government and the ...T OF THE UNITED STATES CONSULATE GENERAL AT SHANGHAI CHINA.

...inal Suits from the 1st day of October to the 31st day of December 1879, inclusive.

	NAME OF DIFENDANT.	NATURE OF SUIT	JUDGMENT	AMOUNT OF FINE IMPOSED.	AMOUNT OF FEES CHARGED AND RECEIVED.	DISPOSITION OF FINES AND FEES.	APPEAL
...e	Li A chin	Theft	Discharged				
...s	Fu Ah pao	Obtaining money under false pretences	Remanded				
...il	Han A nan	Theft	Discharged				
	Hsü Hsiao shan	Illegal sale of land	Sale cancelled				
...il	Chiang a yu	Gambling	80 Blows				
	Chen a Kun	Begging	Warned				
	Liu Hsin pi	Gambling	80 Blows				
	Chao Chao wên	Fighting	1 days jail each				
	Chen Fu shan						
	Wang Kai fu	Theft	80 Blows				
	Chang jên chêng	Assault	80 Blows				
...e	Chên yao lai	Drunkenness	Continued				
	Chu a fu	Fighting	Dismissed				
	Wang a êrh						
	Chou Tsêng yüan						
	Shên Hsien fu	Theft	10 days jail				
...g	Chên lai pao	" "	1 months jail				
	Chang a mao	Fighting	Dismissed				
	Wang a san						
	Fang tzü shan	Drunkenness	Dismissed				
	Pan yao shih						
	Li Tê hsin	Assault	Handed over to the higher Chinese authorities				
...b	Hu a ta	Creating disturbance	Dismissed				
	Li chin mu						
	Chên yü chuan	Theft	Withdrawn				
	Machiu shêng	" "	2 months jail				
	Chên a tsai	Creating disturbance	Withdrawn				
	Yao Mei Hsiei						
	Shên a hsin	"	Dismissed				

Marshal of the U. S. Consular Court.

[Form No. 137.]

UNITED STATES CONSULATE GENERAL A

uits from the 1st day of October to the 31 st

			PLAINTIFF.	DEFENDANT.	NATURE OF SUIT	JUDGMENT	AMOUNT OF FINE IMPOSED.
72	November 6		Wang chin	Chên a jung Wang an fa Chan a erh Hsü Heng Kuei	Assault	the first 3 fined the 4th to be kept in jail until a nature of injuries are ascertained	$ 1.50
73	"	"	Municipal Council	Fu a êrh	Theft	1 weeks jail	
74	"	"	Lo a hêng	Wang mao mao	" "	1/2 months jail	
75	"	"	Li a ping Hu Fêng Chiao	Li a wang Chên a yu	Assault	Remanded	
76	"	11	P.C. Steam Nav. Comp'y	Hu a sui	Loitering	3 days' jail	
77	"	"	Hua Kuei yüan	Wang yu tang	Theft	200 Blows & 2 months Cangue	
78	"	"	Municipal Council	Wu a chang Wu chang pao	Loitering	3 days jail	
79	"	"	"	"	Li Fêng chun Hao a êrh	Fighting	$0,50 damages-
80	"	"	Fêng a ching	Fêng ch'un chüan	Assault	Dismissed	
81	"	"	C.S. Ashley	Wang Hsi lin	Breach of peace	Remanded	
82	"	"	Hsiao Mao êrh	Hsia chün yang	Assault	Remanded	
83	"	13	Municipal Council	Chang a ching	Theft	60 Blows	
84	"	"	"	"	Chên a ta	Nuisance	1 days jail
85	"	"	Han Hing	Wang chin shan	Theft	80 Blows 4 months jail	
86	"	18	S.C. Farnham & Co	Chên Hai fu	" "	1/2 months Cangue	
87	"	"	Municipal Council	Chên Hai ho	Loitering	Cautioned	
88	"	"	Wang a mao	Fu a san	Theft	60 Blows	
89	"	20	Fu Hsiao pao	Hu a pao Chên Ho lin	" "	1st = 100 Blows; 2d = 50 "	
90	"	"	Chên Hsi chün	Li chang lin Ho chang chin	" "	80 Blows each	
91	"	"	Municipal Council	Gang of Gamblers	Gambling		$49 00
92	"	"	Li Teh ling	Ting Ting Kuei	Theft	6 months' jail	
93	"	25	Edbrook & Co	Chên Jung Ming	"	$8 00 to be made good to plaintiff	

Marshal

[Form No. 137.]

ial Chinese Government and the

OF THE UNITED STATES CONSULATE GENERAL AT SHANGHAI CHINA.

al **Suits from the** 1st **day of** October **to the** 31st **day of** December 1879, **inclusive.**

NAME OF DEFENDANT.	NATURE OF SUIT	JUDGMENT	AMOUNT OF FINE IMPOSED.	AMOUNT OF FEES CHARGED AND RECEIVED.	DISPOSITION OF FINES AND FEES.	APPEAL.
Chēn a jing		the first 3 fined	$1.50		Municipal Hospital Funds	
Wang an fa		the 4th to be kept in				
Chan a erh	Assault	jail until nature of				
Hsü Hsing Kuei		injuries ascertained				
Fu a erh	Theft	1 weeks jail				
Wang mao mao	" "	1/2 months jail				
Li a wang	Assault	Remanded				
Chēn a yu						
Hu a sü	Loitering	3 days jail				
Wang yu tang	Theft	200 Blows & 2 months Cangue				
Wu a chang						
Wu chang pao	Loitering	3 days jail				
Li Fēng chun						
Hao a ērh	Fighting	$0,50 damages				
Fēng ch'un chüan	Assault	Dismissed				
Wang Hsi lin	Breach of peace	Remanded				
Hsia chün yang	Assault	Remanded				
Chang a ching	Theft	60 Blows				
Chēn a ta	Nuisance	1 days jail				
Wang chin chao	Theft	80 Blows 4 months jail				
Chēn Hai fu	" "	1/2 months Cangue				
Shēn Hai ho	Loitering	Cautioned				
Fu a san	Theft	60 Blows				
Hu a pao		1st = 100 Blows;				
Chēn Ho lin	" "	2d = 50 "				
Hü chang lin						
Ho chang chin	" "	80 Blows each				
Gang of Gamblers	Gambling		$49.00		Municipal Hospital Fund	
Ting Ting Kuei	Theft	6 months' jail				
Chēn Jung Ding	"	$8.00 to be made good to plaintiff				

Marshal of the U. S. Consular Court.

94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117

[FORM No. 137]

Hlisped Imperial Chinese Government and the COURT OF THE UNITED STATES CONSULATE GENERAL AT

Return of Criminal Suits from the 1st day of October to the 31st

CASE.	DATE OF FIRST PROCEEDINGS.	NAME AND NATIONALITY OF PLAINTIFF.	NAME OF DEFENDANT.	NATURE OF SUIT	JUDGMENT	AMOUNT OF FINE IMPOSED.
94	November 25	Municipal Council	Fan Hai ka	Nuisance	1 days' jail	
95	" 27	G. D. McMorse	Yin a san	" "	1 " "	
96	" "	Chang Sen	Tsao a pao	Assault	Remanded	
97	December 2	Hsiao a sheng	Chen Wang tseng	" "	$10.00 damages	
98	" "	Municipal Council	Chang a pao Hsü a fu	Sodomy (attempted)	1 months' Cangue	
99	" "	" "	Chen a jen	Theft	1 weeks Cangue	
100	" "	" "	Wang Yuei jing Chang jen fa Hsü a pao	Nuisance		$0.75
101	" "	" "	Yao a chi nan	Theft.	Deported	
102	" "	Chen a chin	Wang a sheng	Desertion from ship	8 forfeit 1 months wages and be dis	
103	" 9	Ho Tsan chung	Chin a ta	Theft	Deported	
104	" "	Municipal Council	Shen yu ta	" "	1 weeks Cangue	
105	" "	T. Weeks Ho	Wang Tung jung	" "	1 months Cangue	
106	" "	Li Yü sheng	Chin a jen	" "	1 weeks jail	
107	" 11	Municipal Council	Liang ping jung	Gambling	½ months jail	
108	" "	Wang Erh hung	Wang Yü hung	Theft	1 weeks jail	
109	" "	C. I. Ashley	Chu Ho chang	Drunkenness	Cautioned	
110	" "	Chu a ta	Tang a jen	Theft	1 weeks Cangue	
111	" "	Lin Lu Chih	Chin a san	Assault	80 Blows and to contribute $1.00 a mon	
112	" "	Municipal Council	Gang of eight Gamblers	Gambling		$17.00
113	" 16	Fang jen fu	Hsü Ching fu	Obtaining money under false pretenses	One year in the chain gang	
114	" "	W. Tsungsan	Ne pao ting Yen a shin	Theft	Remanded	
115	" "	Li jung sheng Feng a tao	Chen a sheng	" "	100 Blows & 2 months jail	
116	" "	Wang chiao sheng	Shen ko chun	" "	100 " & 1 " "	
117	" "	Municipal Council	Feng Hua Chih Hu Tseng chi	Drunkenness	Cautioned	

Marshal

[Form No. 137]

...ab Chinese Government and the OF THE UNITED STATES CONSULATE GENERAL AT SHANGHAI CHINA.

...al Suits from the 1st day of October to the 31st day of December 1879, inclusive.

NAME OF DEFENDANT.	NATURE OF SUIT	JUDGMENT	AMOUNT OF FINE IMPOSED.	AMOUNT OF FEES CHARGED AND RECEIVED.	DISPOSITION OF FINES AND FEES.	APPEAL.
Fan Kai ho	Nuisance	10 days' jail				
Yin a san	" "	1 " "				
Tsao a pao	Assault	Remanded				
Chên Wang têng	" "	$10.00 damages				
Chang a pao Heu a fu	Sabbath (attempted)	1 months Cangue				
Chên a jên	Theft	1 weeks Cangue				
Wang Yuei jing Chang jên fa Heu a pao	Nuisance		$0.75		Municipal Hospital Fund	
Yao a chuan	Theft.	Deported				
Wang a cheng	Desertion from ship	To forfeit 1 months wages and be discharged				
Chin a ta	Theft	Deported				
Shên yu tê	" "	1 weeks Cangue				
Wang Fung jing	" "	1 months Cangue				
Chin a jên	" "	1 weeks jail				
Liang ping ping	Gambling	½ months jail				
Wang Yen hung	Theft	1 weeks jail				
Chu Ho chang	Drunkenness	Cautioned				
Tang a jên	Theft	1 weeks Cangue				
Chin a san	Assault	80 Blows and to contribute $1.00 a months towards supporting his mother				
Gang of eight Samboes	Gambling		$17.00		Municipal Hospital Fund	
Heu Cheng fu	Obtaining money under false pretenses	One year in the chain gang				
Ne pao ling Yen a shin	Theft	Remanded				
Chên a cheng	" "	100 Blows & 2 months jail				
Shên bo chun	" "	100 " & 1 " "				
Feng Hua chih Hu Tseng chi	Drunkenness	Continued				

Marshal of the U. S. Consular Court.

[Form No. 137.]

Imperial Chinese Government and the
Mixed COURT OF THE UNITED STATES CONSULATE GENERAL A

Return of Criminal Suits from the 1st day of October to the 31st

NO OF CASE.	DATE OF FIRST PROCEEDINGS.	NAME AND NATIONALITY OF PLAINTIFF.	NAME OF DEFENDANT.	NATURE OF SUIT	JUDGMENT	AMOUNT OF FINE IMPOSED.
118	December 23	Ma a cheng	Lo a lin	Theft	1/2 months jail	
119	" "	Chin tzu hsiang				
		Wang San Kuei	Li a ming	" "	1/2 months jail	
120	" "	D C. Jansen	Wang a nan	" "	100 Blows	
121	" "	A. Silverthorne	Chen Feng	Embezzlement	Remanded	
122	" "	Chin shaw hsiang	Wang chin fu	Theft	1 weeks Cangue	
123	" "	Municipal Council	Hsu a wu	Jail breaking	200 blows	
124	" "	Farnham Rev	Chang tu tzu	Theft	80 blows	
125	" "	Ma a tsai	Yeh a chi	" "	80 "	
126	" "	Chang Ting fa	Chin chin Pao			
			Chow Jung ping	Assault	$2.00 damages	
127	" "	Lu a ta	Liu a shun			
			Chen a ping	" "	100 Blows & 6 weeks jail	
128	" "	Chin Shih	Chow a San			
			Su a sung	Theft	100 Blows & 2 months jail	
129	" "	Chang pao ching	Li a fu	" "	1/2 months Cangue	
130	" "	Tang Kuo ling	Hsi Jen sheng	Assault	100 Blows	
131	" "	Tang jung Tsai	Wang chin teng	Theft	100 Blows & 1/2 months Cangue	
132	" "	Municipal Canal	Lu a jen			
			Hsu Jung lin	Fighting	1 week's jail	
133	" "	" "	Wang chin shaw			
			Wu sung chow	" "	Continued	
134	" "	Chang Li ching	Chu Yen yuan	Theft	Remanded	
135	" "	Shih Chun fu	Chen Chung fu	" "	60 Blows	
136	" "	Wang Jung yun	Wang a Hsu	Assault	3 days' jail	
137	" 30	Chen Hsu wen	Chen a yu	Theft	100 Blows	
138	" "	Municipal Council	Liu a fa	" "	1 week's Cangue	
139	" "	Chow Hsin chi	Fei Tsai yung	Drunkenness	100 Blows	
140	" "	Chin Tang chin	Jung a chi	Assault	100 Blows	
			Chu a pao			
141	" "	Municipal Council	Chien a pao	Theft	100 Blows	

W. H. Maclay
Interpreter

Marshal o

[Form No. 137.]

Serial Chinese Government and the, OF THE UNITED STATES CONSULATE GENERAL AT SHANGHAI CHINA.

al **Suits from the** 1st **day of** October **to the** 31st **day of** December 1879, **inclusive.**

NAME OF DEFENDANT.	NATURE OF SUIT	JUDGMENT	AMOUNT OF FINE IMPOSED.	AMOUNT OF FEES CHARGED AND RECEIVED.	DISPOSITION OF FINES AND FEES.	APPEAL.
Lo a lin	Theft	1/2 months jail				
Li a ming	" "	1/2 months jail				
Wang a nan	" "	100 Blows				
Chen Feng	Embezzlement	Remanded				
Wang chin fu	Theft	1 weeks Cangue				
Hsü a wu	Jail breaking	200 blows				
Chang tu tzü	Theft	80 blows				
Yeh a chi	" "	80 "				
Chin chin Pao Chow Jung ping	Assault	$12.00 damages				
Liu a shun Chen a ping	" "	100 Blows & 6 weeks jail				
Chow a sen Su a ting	Theft	100 Blows & 2 months jail				
Li a fu	" "	1/2 months Cangue				
Hsi Jen sheng	Assault	100 Blows				
Wang chin teng	Theft	100 Blows & 1/2 months Cangue				
Lu a jen Hsü Sung liu	Fighting	1 weeks jail				
Wang chin shaw Wu sung chow	" "	Continued				
Chu Ven yuan	Theft	Remanded				
Chen Chung fu	" "	60 Blows				
Wang a Hsü	Assault	3 days jail				
Chen a yu	Theft	100 Blows				
Liu a fa	" "	1 weeks Cangue				
Fei Tsai yung	Drunkenness	100 Blows				
Sung a chi Chu a pao	Assault	100 Blows				
Chien a pao	Theft	100 Blows				

W. H. Macleay
Interpreter

Marshal of the U. S. Consular Court, and U. S. Assessor
& Clerk of Mixed Court.

Ack

Rec'd Mar 15/80

No. 87] Jany 14 1880 United States Consulate General at Shanghai,

Mr. Bailey Consul General. to the State Department,

Subject:— Duynship of Shanghai Consular Body

ABSTRACT OF CONTENTS.

Informs the Dept of having taken over the Duynship of the Shanghai Consular Body and adds some remarks as to the labor responsibility of the Office.

No. 87.

United States Consulate General,

Shanghai, Jany 14th 1880

Hon. Charles Payson

Third Assistant Secretary of State,

Washington, D.C.

Sir,

I have the honor to inform you that I have this day taken over the office of Doyen of the Consular Body at Shanghai, the German Consul-General, Mr. G. Lunden, who has held the office for a ~~~~ considerable while having been ~~ promoted to be H. I. G. M's Minister at Bogota.

The office is one of high importance and responsibility, involving much labor and correspondence, tact and leadership. The Consular Body may

may be said to be, relatively, the Senate of Shanghai. The Doyen ranks all foreign officials here. And as the office has fallen upon me by choice and not by seniority, the Consulate General of Sweden - Norway, and for Japan, both being my Seniors, I am to consider myself Complimented.

This office added to my Constant Consular duties, and almost Continual judicial work puts on me altogether a labor which I must say is much difficult and wearing. And but for the faithful and efficient support I am receiving from Messrs Lanham Keller and Maclay of my

Consular

Consular Staff I remain, I
fear, be unequal to the task.

I have the honor to be

Sir,

Your obedient Servant

David H. Bailey

Consul-General

Received 16/88 Merwood.

No. 88] Feby 3 1880 *United States Consulate General at Shanghai,*

Mr. Bailey *Consul General.* *to the State Department,*

Subject:— Lord Ld. Correspondence for 4th Qr. of 1879.

ABSTRACT OF CONTENTS.

No. 88.

United States Consulate General,

Shanghai, Feby. 3d 1880

Hon. Charles Payson

Third Assistant Secretary of State,

Washington, D.C.

Sir,

I have the honor to transmit herewith a report of the Correspondence sent and received by this Consulate General for the Quarter ending December 31st 1879

I have the honor to be Sir.

Your obedient Servant

Consul-General

Inclosures No. 1 Letters sent.

" " 2 " received.

Ack + inform Treasury
L. P. Copy to Treas Mail 24/80 Dept. Mail 16/80

No. 89] February 2nd 1880 United States Consulate General at Shanghai,

Mr. Bailey Consul General. to the State Department,

Subject:— Cattle Disease.

DEPARTMENT OF STATE MAR 15 1880 RECEIVED

ABSTRACT OF CONTENTS.

The cattle plague has ended in Shanghai and vicinity. No disease in Hankow. The exportation of Cattle to Japan resumed.

No. 89

United States Consulate General,

Shanghai, February 2nd 1880

Hon. Chas Payson

3rd Asst. Secretary of State,

Washington, D.C.

Sir,

I have the honor to inform you that the cattle disease in Shanghai and neighborhood, an account of which has been sent to the Department in my nos. 66 and 83 has subsided. I am informed that all traces of the disease have disappeared in this vicinity. The Consul at Hankow, to whom I had written asking if the disease prevailed at all in his Consular district, (see my no 83) reports that the cattle in and around Hankow

were perfectly healthy and that
there had been no disease in that
vicinity for at least two years.
The Japanese Government, immediately
on receiving intelligence of the outbreak
of the disease promptly forbade the
importation of cattle into Japan
from Shanghai. This prohibition
has been now removed on
account of the extinction of the
disease.

I have the honor to remain, Sir
Your Obedient Servt
Lucius H. Foote
Consul General

Mr Hood

No. 90] Febr. 2nd 1880 United States Consulate General at Shanghai,

Mr. Bailey Consul General. to the State Department,

Subject:— Account of Returns

ABSTRACT OF CONTENTS.

Encloses accounts and Returns for the 4th quate 1879.

Inclosures

No 1, Stat Form No 117, Digest of Invoice Book

" 2 do " " 120 Arrivals & Departures of Am. Vessels

" 3 file " " 121 Deceased Am. Citizens

" 4 do " Persons employed in the U.S. Consulate

" 5 do Aggregate of Fees for 1879

" 6 Form No. 90 Rent of Miscellaneous Q. Acct. (28 vouchers)

" 7 do Special Clerk Hire Acct (1 voucher)

" 8 Interpreters Acct. (1 voucher)

No. 90

United States Consulate General,

Shanghai, February 2 1880

Hon. Chas. Payson

3rd Asst. Secretary of State,

Washington, D.C.

Sir,

I have the honor to enclose herewith my accounts and returns, Nos 1 to 8 for the 4th quarter of 1879.

In my Miscellaneous Expenses Account Items No. 5, 6, 9, 24, 25, and 26, amounting in the aggregate to $110.03, are not really chargeable to this Consulate. They were paid for the U.S. Legation, and are charged in my account at the express order of the U.S. Minister at Pekin.

I have the honor to remain, Sir

Your Obedient Servt

Consul General

Copied in Index to Despatches from U.S. Consuls in Shanghai, 1850-1880, Vol. 2 p. 31 to Hon. Seward

Copied in Index to Despatches from U.S. Consuls in Shanghai, 1850-1880, Vol. 2 p. 41 to Hon. Caldwell

Recd Apr 1 1880

(Form No. 121.)

AMES of all Deceased American Citizens, including Seamen or Mariners, together with the value of the personal effects belonging to them, and taken possession of by or deposited with D. H. Bailey U. S. Consul at Shanghai, from October 1st to Dec. 31st, inclusive.

ATE CEASE.	NAMES OF PERSONS.	OF WHAT PLACE A NATIVE OR RESIDENT.	IF A SEAMAN, TO WHAT VESSEL BELONGING.	WHERE DECEASED.	VALUE OF EFFECTS.	DISPOSITION MADE THEREOF.
24	Christopher Schmidt	U. S. A.		Shanghai	Unsettled	
29	Isabella M. McKeige	"		"	In hands of husband.	

Daniel L. Bailey
Consul General

U. S. Consulate General
Shanghai China

Inclosure No. 3
with
Dispatch No. 90

Deceased American Citizens

No.

Mr.

Subj

Mr. Wood.

No. 91] Febr. 2 1880 United States Consulate General at Shanghai,

Rec'd March 16/80

Mr. Bailey Consul General. to the State Department,

Subject:— Draft on Sec. of State.

ABSTRACT OF CONTENTS.

Informs the Secretary that he has drawn on him for $685.77.

No. 91

United States Consulate General,

Shanghai, February 2 1880

Hon. Chas. Payson,

3rd Asst. Secretary of State,

Washington, D.C.

Sir,

I have the honor to inform you that I have drawn on the Secretary of State for the sum of five hundred and eighty-five 77/100 dollars, ($585.77/100) to balance my Rent and Miscellaneous Expenses Account for the 4th quarter of 1879.

I have the honor to remain, Sir

Your Obedient Sert

Consul General